

Site Plan Review & Special Use Permits

George Pataki, Governor
Randy A. Daniels, Secretary of State

Designating a Review Board

Governing Board can retain authority to review or delegate some or review of uses to:

- Planning Board
- Zoning Board of Appeals as "original" jurisdiction
- Other authorized board



If the Governing Board retains authority:

- Does not need to articulate standards to guide its decision. (Cummings v. Town Board of New Castle)
- However, the governing board must act reasonably. (Lemir Realty Corp. v. Larkin)

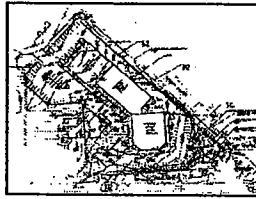
What is a Special Use Permit?

- A n authorization to use land in a way which is permitted by zoning, subject to requirements designed to assure that the proposed use
 - is in harmony with zoning
 - will not adversely affect the neighborhood if the requirements are met.
- Also know as "special exceptions" or "conditional uses"



What is a Site Plan?

- A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in the applicable zoning ordinance or local law, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.



Site Plan vs. Special Use Permit

Site Plan Review

- Use reflected in design
- Need not be part of zoning law
- Looks at layout and design of parcel
- Public hearing not required by state law (Unless review is by a ZBA)
- Performance bond or security agreement allowed
- Goal is good design

Special Use Permit

- Use only allowed at a particular site under certain requirements
- Part of Zoning
- Looks at compatibility with neighboring uses
- Public hearing is required
- No authority to require a performance bond or security agreement
- Goal is harmony

A Special Use Permit is a Zoning Tool which adds Flexibility

- Some uses, while allowed, present challenges that need special attention in order to lessen the impact of these uses upon the area.



- Listing a use as one allowed by SUP is tantamount to a legislative finding that, assuming the requirements have been met, the use is in harmony with the zoning plan and will not adversely affect the neighborhood and surrounding area.

- North Shore Steak House, Inc. v. Board of Appeals of the Incorp. Village of Thomastown



Is the Proposed Use Allowed by Zoning?

- The use should be clear, perhaps even defined in the law
 - List uses, not "or similar uses"
 - Some general categories can be too broad (ex. Retail)
 - Example: sit-down restaurant, take-out restaurant, restaurant with drive-thru window

Use Variance vs. Special Use Permit

- | | |
|--|---|
| <ul style="list-style-type: none"> ■ A use variance is required in order to use land for a purpose NOT allowed by the zoning regulations. ■ It is not listed as a permitted use in the district. | <ul style="list-style-type: none"> ■ A special use permit is for a use that IS allowed by zoning. ■ It is listed as a permissible use subject to additional requirements. |
|--|---|



Should this application be reviewed?

- Problem One: Planning Board reviews and approves a SUP for a use not mentioned in the zoning law.
 - Solution (1): Building Official should deny the building permit, which would allow the applicant to go to the ZBA for an interpretation of whether the use is allowed.
 - Solution (2): Article 78 may be filed by aggrieved party
- Problem Two: Planning Board often finds projects on its agenda that it doesn't believe are allowed.
 - Solution: Prior to putting the SUP request on the agenda, require the zoning enforcement officer to determine whether the use is listed as a use subject to special use permit. Don't put on agenda if not listed. If applicant disagrees, can appeal decision to ZBA for an interpretation.



Special Use Permit Standards

- Once SUP authority is delegated, it must be accompanied by standards/criteria to guide the board's decision.
 - Zoning typically contains general standards applying to all special uses, as well as standards specific to certain uses (kennels, gas stations, etc.)

■ If there are no standards, the board's decision may be invalidated by the courts.

General standards will usually be upheld, but it is better to be more specific than "in the consideration of public health, safety and welfare."

Examples of Requirements or Standards

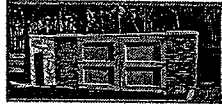
Application of Standards

- General: All listed uses must provide adequate traffic, safety and lighting improvements
- Specific: There shall be no internal illumination of any sign



Specificity of Standard

- General: A dumpsters must be provided and screened from view
- Specific: A dumpster must be provided that blends into the architecture of the building



Site Plan Review Focuses on a Single Piece of Property

- Could be applied to many uses, ranging from a single family home to a mega mall.
- Consider whether the site plan would be in accordance with the comprehensive plan
- May be triggered by a change in use if local law/ordinance provides for it
- Zoning is not necessary in order to enact site plan review



What Uses are Subject to Site Plan Review?

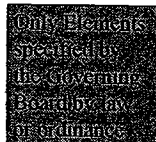


What should our local site plan review regulations say?

- Specify the land uses which require site plan approval
- Indicate which board will review site plans, and who will enforce the conditions of approval
- Specify submission requirements
- List local procedures, such as the need for a public hearing
- List elements the board can review

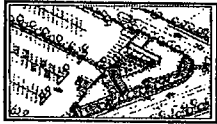
Examples of the types of elements that the board can be authorized to review

- Adjacent uses
- Location/dimension of buildings
- Screening & landscaping
- Architectural features
- Proposed grades & contours
- Utilities
- Sewage & storm drainage
- Parking, access, traffic
- Lighting, signage



Examples

- Pedestrian Friendly
- Storm Water Retention
- Erosion Control
- Architectural Features



Parkland (Site Plan only)

- For residential site plans, land or money in lieu of parkland, can be required to address recreational needs created by the approved site plan



Security Agreements (Site Plan only)

- If the improvement will not be installed prior to issuance of a certificate of occupancy, be sure to get a security agreement
 - Letter of Credit
 - Cash in Escrow
 - Performance Bond



Procedural Basics – Site Plans & Special Use Permits

HEARINGS

- Public Hearing must be held within 62 days from receipt of application
 - (Not mandatory for site plans unless ZBA is conducting the review. If hearing is held, must comply with time frames and notice to county)
- Notice must be mailed to the applicant & county (if GML 239-m triggered) within 10 days of the hearing
- Notice must be published in newspaper of general circulation at least 5 days prior to the hearing

DECISIONS

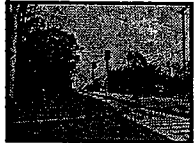
- Decision must be made within 62 days after close of hearing
- Decision must be filed with municipal clerk within 5 business days after decision is rendered
- Board must comply with SEQRA. If an EIS is required then the timelines are adjusted for the EIS process.

Ability to Waive Requirements

- Requires authorization by governing board
- Reviewing board must determine that the requirement is not necessary in the interest of public health, safety or general welfare or is inappropriate to the particular property.
 - Submission requirements
 - Permit requirements in SUP or SPR section of zoning



Sidewalk to nowhere?



Ability to Place Conditions on the Approval

- Review board has express statutory authority to impose conditions which relate to the impact of the development on the land itself.
 - Old Country Burgers v. Town of Oyster Bay
- Example: Gas station in a SR-1 district is permitted where the size and layout would not adversely effect the neighborhood.
 - Permit conditioned on adequate parking, drainage and lighting

State Environmental Quality Review Act

The Review Board must:

- 1) Require an EAF to be submitted with the application (Some site plans will be Type II actions)
- 2) Make a determination of significance.
 - a) If a negative declaration, SEQRA is done.
 - b) If a positive declaration, application not complete until a draft EIS has been accepted for public review.
- 3) Decide whether to hold a hearing on the DEIS along with the hearing that may already be required. If yes, 14 day notice requirement must be followed
- 4) Complete the SEQRA process before making a final decision on the site plan application.

County Referral

Some Special Use Permits or Site Plans Must be Referred to the County Planning Board

Refer it if it Applies to Real Property within 500 Feet of:

- Municipal Boundary
- Boundary of State or County
- Park or Recreation Area
- R-O-W of State or County Road
- R-O-W of County-Owned Stream or Drainage Channel
- Boundary of State or County Land on Which a Public Building is Located
- Boundary of a Farm Operation that is in a State Agricultural District (except for area variances)



Challenges

ENFORCEMENT


- Authorize the code enforcement officer to enforce the special use permit conditions
 - Could be stated in SUP law or in zoning statement
- Require that approval conditions must be met to the extent practicable prior to the issuance of a building permit



APPEALS

- Decisions of the Reviewing Board are appealed to the Supreme Court in an Article 78 proceeding





■ Local Government (518)473-3355
■ Office of Counsel (518)474-6740
■ Toll Free (800)367-8488
■ WWW.DOS.STATE.NY.US

Legal Memorandum LU15

Can Local Boards Regulate the Hours of Operation of a Business?

Municipal officials often ask whether, and by what means, a municipality can regulate the hours of operation of a business. The answer to this seemingly easy question is quite complicated.

Zoning conditions and restrictions imposed by a municipal board in the exercise of its zoning powers must be related to the use of land and must be for a proper purpose of zoning.^[1] The conditions imposed must be reasonable and “directly related to and incidental to” the proposed use.^[2] The courts have held that municipalities are prohibited from using their zoning powers to regulate the internal operations or the details of a business.^[3] Zoning conditions and restrictions aimed at controlling the details or operation of an owner’s use of land are outside of a municipality’s delegated authority.^[4]

The question, then, is whether the hours of operation of a business is a component of its “internal operation”. If it is, then it’s not within the reach of a municipality’s zoning power.

Restricting Hours of Operation through Conditions

New York courts have, with limited exception, struck down conditions imposed by planning and zoning boards that regulate the hours of operation of a business as an attempt to regulate the internal operations or the details of a business.

In *Matter of Schlosser v. Michaelis*,^[5] the zoning board of appeals granted the petitioner’s application for a use variance to use the property as a wholesale florist business, subject to certain conditions, such as limiting the number of employees and the hours and days of operation. The court invalidated those conditions stating that “the [b]oard of [a]ppeals has no power to impose conditions which apply to the details of the operation of the business and not to the zoning use of the premises.”^[6]

In *Summit School v. Neugent*,^[7] the petitioner applied to the zoning board of appeals for a variance and a special use permit to use the property as a school for handicapped children. The variance and special use permit were granted subject to numerous conditions, including conditions which limited the months, days and times of the classes.^[8] The court stated that the conditions imposed went beyond the legislative power conferred upon the board to impose conditions on administrative permits.^[9] The conditions did not relate to the use of the land but rather to the manner of operation of the school. Therefore, the conditions were held to be invalid as an improper “attempt to control the details of the operation of a private school.”^[10]

In *Old Country Burgers Corp., Inc. v. Town Board of Town of Oyster Bay*,^[11] the petitioner, Burger King, applied for a special use permit to operate a drive-through window. The town board granted the application subject to certain conditions on its use. One such condition was a prohibition on the use of the drive-through “between the hours of 8 a.m. and 9:30 a.m.; 12 noon and 1:30 p.m.; and 5 p.m. and 6:30 p.m.”^[12] The court held that this condition, which prohibited the operation of the drive-through window during peak meal-time hours, was “an impermissible attempt to regulate the details of the operation of the [business].”^[13] Although the town sought to justify the condition based on increased traffic, the court found that “the condition was not based upon substantial evidence” and therefore invalidated the condition.^[14]

In *Master Billiard Co., Inc. v. Rose*,^[15] the zoning board of appeals granted an application for a special use permit that imposed several conditions, including a restriction on the billiard parlor’s hours of operation.^[16] The court

held that four of the ten conditions imposed, including the hours of operation restriction, did not relate to the use of the land but “to the internal operations of petitioner’s business and were unrelated to the purpose of the zoning.”[17] The court found that these conditions were outside the scope of the permit application, and therefore, unlawful.

As shown above, these cases have established a trend in the law in which conditioning administrative approvals based upon the hours of operation of a business is regarded as an improper attempt to regulate the internal operations of a business. These cases involved conditions which were invalidated as having an insufficient relationship to the physical use of land.[18] The courts have held that “[c]onditions . . . must relate to the proposed use of the [] property, and not to the manner of the operation of the particular enterprise conducted on the premises.”[19]

Recently, in 1998, the Appellate Division, Third Department, took a different view on the regulation of hours of operation. In the case of *Twin Town Little League Inc. v. Town of Poestenkill*, [20] the court upheld conditions imposed on a site plan for a little league baseball complex. The planning board had imposed nine conditions upon the approval of the site plan, including restrictions on the hours of operation. The court held that the conditions were supported by substantial evidence and that they were “directly related to and incidental to the proposed use of the property.”[21] The court recognized that the conditions were necessary to mitigate the adverse impacts, specifically neighborhood concerns regarding the depreciation of property value due to increased noise, traffic and lighting, while ensuring compatibility with the neighborhood.[22] The court regarded these conditions as acceptable, finding the conditions to be “a reasonable attempt to alleviate these concerns . . . as they relate directly to the use of the land.”[23]

Limiting Hours of Operation through Zoning Legislation

Some courts appear to distinguish between administrative and legislative acts (the adoption of a local law or ordinance). Those courts have expressed the view that certain conditions, such as hours of operation, can be dealt with legislatively rather than administratively.[24]

The law is unsettled with respect to whether a governing board can legislate the hours of operation of a business under its zoning authority. The fundamental rule that zoning conditions and restrictions must relate to the physical use of the land and not the operation of an applicant’s business also applies to zoning legislation; the determination must be made as to whether the regulation of the hours of operation of a business is a legitimate purpose of zoning. [25]

In *Southland Corp. v. Janoski*, [26] the Supreme Court in Suffolk County upheld a local law rezoning a retail district which limited the hours of operation of retail businesses between 12 a.m. and 5 a.m.[27] The court found the local law to be a proper exercise of the town’s police powers enacted to encourage harmony between businesses and residents and to promote the “health, safety, peace and comfort” of local residents.[28] The local law served the legitimate governmental purpose of controlling traffic and noise. The local law was upheld as constitutional and affirmed on appeal.[29]

In contrast, the Supreme Court in Nassau County, in *Louhal Properties, Inc. v. Strada*, [30] held that the Village of Westbury’s law, which restricted the operation of certain businesses between the hours of 11 p.m. and 6 a.m., was an invalid exercise of zoning power.[31] The court stated that “applicable case law draws a dichotomy between those regulations that directly relate to the physical use of land and those that regulate the manner of operation of a business or other enterprise.”[32] The court based its decision on the rule derived from *Old Country Burgers*, where the Second Department held that “absent substantial evidence showing the external impact of the land use in question, a restriction on hours of operation must be deemed an impermissible attempt to regulate the details of the operation of a business.”[33] The court, in *Louhal*, felt that “[t]he Village [had] failed to adequately substantiate its claim with respect to the adverse impact of 24-hour uses on neighboring properties.”[34] There was no evidence presented that businesses open 24 hours had a greater impact on neighboring properties than businesses operating during regular business hours.[35]

Although reaching different conclusions, the two cases dealing with local laws limiting the hours of operation of a business appear to use the same test: if provided with substantial evidence showing that restricting the hours of operation relates to the physical use of land and not to the internal operation of a business, the local law will likely be upheld as a legitimate exercise of the municipality's zoning power.[36]

Restricting Hours of Operation through Municipal Police Power Regulations and State Laws which Authorize the Regulation of Hours of Operation

As distinguished from zoning, the courts have not prohibited municipalities from regulating the hours of operation of a business through the use of its general police powers. There is no requirement that such regulations relate to the physical use of the land, nor is there a prohibition against the regulation of the internal operations of a business.

The State Constitution permits municipalities to adopt and amend local laws for the preservation of health, safety and welfare of their citizens.[37] Any regulations enacted under a municipality's police power must be reasonable and reasonably related to a legitimate governmental purpose.[38]

For instance, in *Town Board of the Town of Southampton v. 1320 Entertainment, Inc.*,[39] the Town Code restricted the hours of operation of the defendant's automobile racetrack. The court held that "insofar as [the] Town Code . . . imposes reasonable limitations upon the days and hours during which races may be conducted, it is a proper exercise of the town's police powers." [40]

Municipalities may regulate the hours of operation of a business through specific statutory authority. For example, section 130 of the Town Law allows for the regulation of certain uses and businesses, specifically allowing the town board to establish the opening and closing hours of all beverage and eating places.[41]

A municipality may also regulate hours of operation under certain provisions of the Municipal Home Rule Law. The Municipal Home Rule Law allows a municipality to adopt or amend local laws, pursuant to its police powers, for the regulation or licensing of businesses.[42] As long as the municipality is not regulating by means of its zoning powers, the broad authority to regulate or license businesses, under the Municipal Home Rule Law, may include the regulation of hours of operation, though the statute is silent on this particular issue.[43]

Conclusion

The courts have held that without showing a direct impact on the land, regulating the hours of operation of a business is not a proper purpose of zoning, but rather an improper attempt to regulate the internal operations of a business. While municipalities are restricted in their ability to regulate using their zoning powers, there does not appear to be a similar restriction on enacting legislation for non-zoning purposes.

ENDNOTES

1. See *St. Onge v. Donovan*, 71 N.Y.2d 507, 515 (1988) (citing *Matter of Dexter v. Town Board*, 36 N.Y.2d 102, 105 (1975) (Conditions imposed by local zoning boards must be reasonable and relate only to the land at issue and not to the person who owns or occupies the land.); see also *Province of Meribah Society of Mary Inc. v. Board of Zoning Appeals of Incorporated Village of Muttontown*, 148 A.D.2d 512, 538 N.Y.S.2d 850 (2d Dept. 1989); see also Arden H. Rathkopf & Daren A. Rathkopf, *Law of Zoning and Planning*, § 2:14 (rev. 2002) (explaining that the authority under the zoning enabling statutes to impose restrictions or conditions must relate to the "objects and purposes of the enabling legislation."); see also Patricia E. Salkin, *New York Zoning Law and Practice* §§ 29:42 & 30:05 (4th ed. 2002).
2. See *St. Onge v. Donovan*, 71 N.Y.2d 507, 516 (1988) (quoting *Matter of Pearson v. Shoemaker*, 25 Misc.2d 591, 592); see Town Law § 274-a(4) & b(4), Village Law 7-725-a(4) & b(4) and General City Law § 27-a & b(4) ("The authorized board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed site plan (special use permit)."); see also Salkin, *supra* note 1 at 30:05).
3. See *St. Onge v. Donovan*, 71 N.Y.2d 507 (1988).
4. See Rathkopf, *supra* note 1 at 2:14 & 60:18 (explaining that zoning restrictions and conditions relating to the

use of land, such as landscaping, traffic access and open space, are proper objectives and purposes of regulation authorized and delegated by the zoning enabling statutes).

5. 18 A.D.2d 940, 238 N.Y.S.2d 433 (2d Dept. 1963).
6. *Id.* at 941, 238 N.Y.S.2d 434-35; *see also* Rathkopf, *supra* note 1 at 60:18 (explaining that several court decisions have held that the zoning enabling authority extends to the regulation of the use of land and that zoning which controls the details of an owner's operation is tantamount to an ultra vires act, beyond the statutory authority delegated).
7. 82 A.D.2d 442, 442 N.Y.S.2d 73 (2d Dept. 1981).
8. *See id.*
9. *See id.* at 467, 442 N.Y.S.2d at 77 (stating that there is strong public policy against a municipality imposing conditions on the details of the operation of the educational process. The court held that it is improper and beyond the powers conferred upon a municipality to impose such conditions).
10. *Id.* at 473, 442 N.Y.S.2d at 80.
11. 160 A.D.2d 805, 553 N.Y.S.2d 843 (2d Dept. 1990).
12. *Id.* at 805, 553 N.Y.S.2d at 844.
13. *Id.*
14. *Id.* (stating that "there was no showing that the proposed use would have a greater impact on traffic than other uses which are unconditionally permitted in the area.").
15. N.Y.L.J., June 3, 1994, at 31, col 3 (Sup. Ct. Nassau County), *aff'd* 194 A.D.2d 607, 599 N.Y.S.2d 68 (2d Dept. 1993).
16. *Id.* (restricting the hours to "Sunday-Thursday from 10 A.M. to 12 midnight. Friday and Saturday from 10 A.M. to 1 A.M. of the following day and on evenings before holidays to 1 A.M. of the holiday.").
17. *Id.*
18. *See Old Country Burgers Corp., Inc. v. Town Board of Town of Oyster Bay*, 160 A.D.2d 805, 805, 553 N.Y.S.2d 843, 844 (2d Dept. 1990); *Schlosser v. Michaelis*, 18 A.D.2d 940, 238 N.Y.S.2d 433 (2d Dept. 1963) and *Summit School v. Nugent*, 82 A.D.2d 463, 442 N.Y.S.2d 73 (2d Dept. 1981); *see also Louhal Properties, Inc. v. Strada*, 743 N.Y.S.2d 810 (Sup. Ct. Nassau County, 2002) (explaining that a trend has been created where petitioners were unable to or did not provide the court with substantial evidence demonstrating that the conditions related to the use of land and not the manner of operation of the owner's business).
19. *Old Country Burgers Corp., Inc. v. Town Board of Town of Oyster Bay*, 160 A.D.2d 805, 805, 553 N.Y.S.2d 843, 844 (2d Dept. 1990) (citing *Province of Meribah Society of Mary v. Village of Muttontown*, 148 A.D.2d 512, 538 N.Y.S.2d 85); *Summit School v. Neugent*, 82 A.D.2d 463, 442 N.Y.S.2d 73 (2d Dept. 1981) (finding that the power to grant conditions is not unlimited).
20. 249 A.D.2d 811, 671 N.Y.S.2d 831 (3d Dept. 1998).
21. *Id.* at 813, 671 N.Y.S.2d at 833 (alluding to the requirement in section of the ZBA statutes, Town Law § 267-b, Village Law 7-712-b, and General City Law § 81-b, that conditions be reasonable and directly related to the proposed use of the property and that such conditions "be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.").
22. *See id.*
23. *Id.*
24. *See Oakwood Island Yacht Club, Inc. v. Board of Appeals of City of New Rochelle*, 223 N.Y.S.2d 907 (Sup. Ct. Rockland County, 1961) (holding that the condition attached to the issuance of a special use permit, imposing curfew on the use of boats between 9 P.M. and 7 A.M., was an unreasonable restriction unrelated to the use applied for and thus beyond the power of the board. The court based its decision on the fact that nothing authorizes the board to impose such restrictions, holding that such a restriction "is a matter for legislative, not administrative, consideration."); *see also De Ville Homes, Inc. v. Michaelis*, 201 N.Y.S.2d 129 (Sup. Ct. Nassau County, 1960) (differentiating between legislative and administrative power, implying that certain conditions should be left for the governing board to deal with through legislation. The court felt that "the powers granted to or inherent in such [b]oards to impose reasonable conditions under proper circumstances applies to use of premises and not details of operation.").
25. Howard Geneslaw, *The Validity of Special Use Permit and Site Plan Conditions of Approval*, *Envtl Law in New York*, Vol. 7, No. 1, at 16 (January 1996) ("To the extent that conditions imposed by a board restricting

operation of an applicant's business are invalid as improper purposes of zoning, it should be followed that the same conditions would also be invalid as improper purposes of zoning even if expressly set forth in the zoning law.").

26. Sup. Ct. Suffolk County, June 13, 1994, Index No. 19836/91), *aff'd* 630 N.Y.S.2d 950 (2d Dept. 1995).
27. *See id.*
28. *Id.*
29. *Id.*
30. 191 Misc.2d 746, 743 N.Y.S.2d 810 (Sup. Ct. Nassau County, 2002).
31. See Village Law § 7-700 (listing specific items, all relating to the use of land, that a village may regulate under such authority, such as size, height and location and use of buildings); *see also De Sena v. Gulde*, 24 A.D.2d 165, 171, 265 N.Y.S.2d 239 (2d Dept. 1965) (holding that zoning power must "operate in relation to the use of land and not for the accomplishment of purposes extraneous to that relation.").
32. *Louhal Properties, Inc. v. Strada*, 191 Misc.2d at 751, 743 N.Y.S.2d at 814; *see e.g., Schlosser v. Michaelis*, 18 A.D.2d 940, 238 N.Y.S.2d 433 (2d Dept. 1963) and *Summit School v. Nugent*, 82 A.D.2d 463, 442 N.Y.S.2d 73 (2d Dept. 1981); *see generally St. Onge v. Donovan*, 71 N.Y.2d 507 (1988); *see also Rathkopf, supra* note 1 at § 1.02[4][a] (explaining that regulations relating to the use of land or to the impact of land use on neighboring properties are treated differently than regulations that restrict the manner of operation.).
33. *Id.* at 753, 743 N.Y.S.2d at 815 (deriving this language from *Old Country Burgers Corp., Inc. v. Town Board Board of Town of Oyster Bay*, 160 A.D.2d 805, 805, 553 N.Y.S.2d 843, 844 (2d Dept. 1990).
34. *Louhal Properties, Inc. v. Strada*, 191 Misc.2d at 751, 743 N.Y.S.2d at 814.
35. *Id.*
36. *See id.* (stating that the courts have generally upheld regulations directed at the physical use of land, "such as light, air quality, safety, population density and traffic . . . property values aesthetics [and] environmental values."); *see also St. Onge v. Donovan*, 71 N.Y.2d 507, 516 (1988) (citing *Matter of Pearson v. Shoemaker*, 25 Misc.2d 591 (Sup. Ct. Rockland County, 1960)).
37. *See* N.Y. Const. Art. IX § 2(c)(10) ("Every local government shall have power to adopt and amend local laws not inconsistent with the provisions of this constitution or any general law relating to . . . [t]he government, protection, order, conduct, safety, health and well-being of persons or property therein."); *see also Mayor of City of New York v. Council of City of New York*, 182 Misc.2d 330, 335, 696 N.Y.S.2d 761, 765 (Sup. Ct. New York County, 1999) (holding that "the home rule provision of N.Y. Const art. IX, § 2, cl. (c) gives local governments broad police powers relating to the welfare of their citizens.") (citing *New York State Club Assn., Inc. v. City of New York*, 69 N.Y.2d 211(1987), *aff'd* 487 U.S. 1(1988)).
38. *See People v. Goodman*, 31 N.Y.2d 262 (1972); *see also Fred F. French Investing, Inc. v City of New York*, 39 NY2d 587 (1976); *see also* 1991 N.Y. Op. Atty. Gen. (Inf) 1108 (stating that "a legitimate governmental purpose is one which promotes the public health, safety and well-being."); *see also* 1982 N.Y. Op. Atty. Gen. (Inf) 227 (stating that "the broad grant of the police power is limited by the requirement that its use must be reasonable.").
39. 236 A.D.2d 387, 653 N.Y.S.2d 364 (2d Dept. 1997).
40. *Id.* at 388, 653 N.Y.S.2d at 365 (citing *Matter of Borer v. Vineberg*, 213 A.D.2d 828, 623 N.Y.S.2d 378 (3d Dept. 1995) (In footnote 3, the court explained that the city may enact an ordinance regulating the hours of operation . . . if it was reasonably necessary to promote a public interest); *see also Taylor Tree, Inc. v. Planning Board of Town of Montgomery*, 272 A.D.2d 336, 707 N.Y.S.2d 193 (2d Dept. 2000) (stating that the zoning board had the authority to impose conditions on the hours of operation of a recycling business as an exercise of its police powers. The restriction on the hours of operation for all recycling plants is in the Composting and Recycling Law which is an amendment to the town's zoning law).
41. *See* Town Law § 130(13) (stating that the town board may regulate "all places selling or offering for sale at retail for consumption on the premises any beverage or food stuff; providing for sanitation and cleanliness and the inspection thereof and defining the opening and closing hours and all other matters related thereto." However, municipalities are prohibited from legislating with respect to establishments selling alcoholic beverages, whereby these local laws are preempted by the Alcohol Beverage Control Law. *See Matter of Lansdown Entertainment Corp. v. New York City Dept. of Consumer Affairs*, 74 N.Y. 2d 761, 764 (1989) (stating that the Alcoholic beverage Control Law specifically preempts local regulation "concerning the subject matter of hours of operation, distribution, or consumption."); *see also People v. De Jesus*, 54 N.Y.2d

465 (1981).

42. *See* Municipal Home Rule Law § 10(1)(ii)(a)(12).
43. *See e.g.*, Town Law § 136 (giving municipalities plenary power with respect to the licensing of businesses. The statutory language is broad, therefore, it could be interpreted to allow for the regulation of a business's hours of operation. Regulating business, under Town Law §§ 130 & 136, is limited to the businesses listed in the relevant section, and only through a municipality's police powers can an unlisted business be regulated.); *see also* General City Law § 20(13) (providing cities with the power "to maintain order, enforce the laws, protect property and . . . for any of said purposes to regulate and license occupations and businesses.").

Local Law Filing

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NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12223

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

waiver
segments for
expiration

~~XXXXXX~~

~~City~~ of MT. MORRIS

Town

~~XXXXXX~~

Local Law No. 1 of the year 19

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

JUL 24 1997

A local law establishing criteria for Site Plan Review
(Insert Title)

Allyn F. D'Amico
Secretary of State

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~

~~City~~

Town

~~XXXXXX~~

of MT. MORRIS

as follows:

SEE ATTACHED

(If additional space is needed, attach pages the same size as this sheet, and number (1))

A. Approval of Site Plans

1. Introductory Provisions

(a) Purpose and Intent

The purpose of site plan approval is to determine compliance with the objectives of this Chapter in zoning districts where inappropriate development may cause a conflict between uses in the same or adjoining zoning district by creating unhealthful and unsafe conditions and thereby adversely affecting the public health, safety and general welfare. A clean and attractive environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants.

It is the further intent of these provisions to ensure the optimum overall conservation, protection, preservation, development and use of natural and man-related resources of the town through review and approval of site plans.

2. Applicability

(a) Uses Requiring Site Plan Approval

Prior to the issuance of a building permit in any zoning district or a permit for a change in use or approval of a special use, the Code Enforcement Officer shall require site plan approval in accordance with the provisions of this Subsection. All new land use activities shall require site plan approval, including new structures, new uses, expansions of existing structures, excavation operations, and legal conversions of existing buildings to other uses except those specifically exempted below.

(b) Exempted Uses

The following land use activities are exempted from the requirements of this Subsection:

- [1] Construction of a single one- or two-family dwelling on an approved building lot, including residential subdivisions, meeting the dimensional requirements of this chapter.
- [2] Permitted accessory structures to one- and two-family dwellings.
- [3] Exterior alterations or additions to one- and two-family dwellings.
- [4] Agricultural land uses, with the exception of roadside stands for the sale of agricultural products from a permanent structure.
- [5] Incidental landscaping or grading.

(c) Existing Uses and Structures.

This Subsection does not apply to uses and structures that are lawfully in existence as of the date this Subsection is adopted. Any use that would otherwise be subject to this Subsection, which has been

discontinued for a period of one year or more, shall be subject to review pursuant to the terms herein defined before such use is resumed. Any use or structure shall be considered to be in existence provided such use or structure has started construction prior to the effective date of this Subsection and is fully constructed and completed within one year after the effective date of these regulations.

(d) Uncertain Applicability

Any person uncertain of the applicability of the provisions of this Subsection to a given land use activity may apply in writing to the Code Enforcement Officer for a written jurisdictional determination.

3. Procedures

(a) Site Plan Review and Approval Process

Site plan review shall follow a two-step approval process: preliminary site plan review and approval and final site plan review and approval. For significant or complex projects, there is an optional sketch plan step.

(b) Optional Sketch Plan Submission

- [1] A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such conference is to enable the applicant to inform the Planning Board of the proposal prior to preparation of a detailed site plan and to provide the Planning Board with an opportunity to review the basic site plan concept, to advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. At the sketch plan conference the Planning Board will determine if the proposal is in conformity to the adopted Town Master Plan and any other approved plans. To the extent feasible, the Planning Board shall provide the applicant with an indication of whether the proposal, in its major features is acceptable or should be modified before expenditures for more detailed planning are made.
- [2] In order to accomplish these objectives, the applicant shall provide the following at a date specified by the town prior to the date when the Planning Board will discuss the sketch plan:
 - [a] A sketch showing the locations and dimensions of principal and accessory structures, parking areas, signs, existing and proposed vegetation and other existing or planned features; a narrative describing anticipated changes to existing topography and natural features including state and federal wetlands; proposed water supply and sewage and waste disposal facilities; provisions for stormwater drainage, recreation and open space; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations.
- [3] The Planning Board, upon review of the sketch plan, with the concurrence of the Town Engineer, may waive requirements for application materials for developments for which,

due to character, size, location or special circumstances, such information is not required in order for the Planning Board to properly perform site plan review.

(c) Application for Site Plan Approval

To apply for site plan approval, an applicant shall complete a site plan application form, which can be obtained from the town clerk or the Code Enforcement Officer. The application form shall be filed with the town clerk together with the site plan application fee. The application fee shall be set by the town board and may be modified on a yearly basis. The town clerk shall within five days notify the Planning Board that such an application has been filed and the date thereof.

(d) Procedures for Preliminary Site Plan Review

[1] Preliminary site plan review.

- [a]** Prior to the submission of the preliminary site plan, the applicant may meet in person with the Code Enforcement Officer or designated representative to discuss the proposal and to make clear all town requirements and subsequent steps necessary in the site plan approval process. The applicant will be informed of the optional sketch plan conference with the Planning Board. The applicant shall submit to the Code Enforcement Officer a copy of the preliminary site plan and any related information at least ten (10) days prior to the Planning Board meeting at which approval is requested. The Planning Board shall act on this application within forty-five (45) days after the preliminary site plan has been accepted by the town, unless the deadline is extended by mutual consent or unless the deadlines of the State Environmental Quality Review (SEQR) Act do not allow for this decision by the Planning Board because of the SEQR review process.
- [b]** Within six (6) months following the optional sketch plan conference a copy of the site plan and any related information shall be submitted to the Code Enforcement Officer at least ten (10) days prior to the Planning Board meeting at which approval is requested.
- [c]** The Code Enforcement Officer shall certify on each site plan or amendment whether or not the plan meets the requirements of all regulations other than those of this Chapter regarding site plan approval.
- [d]** The Planning Board, upon completion of preliminary site plan review, shall impose any conditions which the applicant must meet prior to receiving preliminary site plan approval.
- [e]** In the case of a proposed development which is phased over a number of years, the applicant shall submit an overall plan for the total development of the project, and a phasing plan for each phase of the development. If the overall plan for this project is approved and the first phase of the project is approved, then the first phase of the project continues on to final site plan review and approval. If there is no substantial change in the overall plan or

the phasing plan of the project, each succeeding phase of the development need only be reviewed for final site plan approval. If there are substantial changes to the overall plan or the phasing plan, the Planning Board shall require subsequent phases to go through preliminary site plan review and approval.

- [f] Any resubmission of a previously approved preliminary site plan shall be required to go through the same procedures as the original preliminary site plan application.

[2] Content of the Preliminary Site Plan

The applicant shall have a current site plan map and report prepared by a civil engineer or surveyor licensed to practice in the State of New York, in sufficient detail to permit an adequate review by an architect, civil engineer, surveyor, land planner or other competent person. The site plan shall be drawn at a scale of one hundred (100) feet to one inch or larger. The preliminary site plan shall include the following information:

[a] Legal data:

- {1} The name and address of the owner of record.
- {2} The name and address of the person, firm or organization preparing the map.
- {3} The date, North point and written and graphic scale.
- {4} Sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest ten (10) seconds or closer. The error of closure shall not exceed one (1) in ten thousand (10,000).
- {5} The locations, names and existing widths of adjacent streets and curb lines.
- {6} The locations and owners of all adjoining lands, as shown on the latest tax records and tax map identification numbers.
- {7} The location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjacent to the property.
- {8} A complete outline of existing deed restrictions or covenants applying to the property.
- {9} Existing zoning within five hundred (500) feet of the site's perimeter.

- {10} Tape location map and the distance to nearest public street right-of-way intersection.

[b] Natural features:

- {1} Existing contours with intervals of five (5) feet or less, referred to a datum satisfactory to the Board.
- {2} Approximate boundaries of any areas subject to flooding or stormwater overflows.
- {3} The location of existing watercourses, New York State and federal wetlands, wooded areas, rock outcrops, isolated trees with a diameter of eight (8) inches or more measured three (3) feet above the base of the trunk and other significant existing features.

[c] Existing structures and utilities and other features:

- {1} The location of uses and outlines of all existing structures, drawn to scale, on and within twenty (20) feet of the lot line.
- {2} Paved areas, sidewalks and vehicular access between the site and public streets.
- {3} Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred (100) feet of the site. The Planning Board may at its discretion require a detailed traffic study for large developments or for those in heavy traffic areas to include:
 - {a} The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic intervals;
 - {b} The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
 - {c} The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall also be given.
- {4} Locations, dimensions, grades and flow direction of existing sewers, drainage ditches, culverts and water lines, as well as other underground and aboveground utilities within and adjacent to the property.
- {5} Other existing development, including fences, retaining walls,

landscaping and screening.

- {6} Historic or archaeological resources on or adjacent to the site

[d] Proposed development:

- {1} The location, type of construction and exterior dimensions of proposed buildings or structural improvements. Note: Elevations and/or sections illustrating front, rear, and side profiles drawn to the same or larger scale as the site development plan, may be required by the Planning Board. The elevations and/or sections shall clearly delineate the bulk and height of all buildings and other permanent structures included in the proposal.
- {2} The location and design of all uses not requiring structures, such as off-street parking and loading areas.
- {3} The location, direction, power and time of use for any proposed outdoor lighting.
- {4} The location, size and design for all proposed permanent outdoor signs.
- {5} The location and arrangement of proposed means of access and egress, including sidewalks and other pedestrian access, driveways, fire lanes and other emergency zones, or other paved areas. Profiles indicating grading and cross sections showing width of roadway, location and width of sidewalks, and location and size of water and sewer lines. For commercial and industrial structures, identify the amount of gross floor area proposed for retail sales, services, offices and other uses.
- {6} Any proposed screening and other landscaping, including types and locations of proposed street trees, as well as a planting schedule.
- {7} The description of the water supply system, location of well(s) and/or all proposed water lines, valves and hydrants, and of all sewer lines and alternate means of water supply and sewage disposal and treatment.
- {8} An outline of any proposed easements, deed restrictions or covenants.
- {9} Any contemplated public improvements on or adjoining the property.
- {10} Any proposed new grades, indicating clearly how such grades will meet existing grades of adjacent properties on the street.
- {11} A drainage plan showing existing and proposed water courses, proposed detention/retention facilities and calculations of the impact

to existing drainage created by the proposed development.

Note: Contour intervals of one or two feet may be appropriate for grading and drainage plans.

- {12} Location of outdoor storage and waste receptacles and proposed screening for such.
 - {13} Location and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
 - {14} Location, design, and construction materials of all energy generation and distribution facilities, including electrical, gas and solar energy.
 - {15} If the site plan indicates only a first stage, a supplementary plan shall indicate ultimate development.
 - {16} The percentage of open space provided, the location and development of all proposed buffer areas, including indication of proposed vegetative cover.
 - {17} Any setbacks or other dimensional information required by this chapter.
 - {18} Record of applications and approval status of all necessary permits from federal, state, county, and local agencies.
 - {19} Estimated project construction schedule.
 - {20} Estimate of the total cost of proposed site improvements which shall be confirmed by the Code Enforcement Officer or Town Engineer.
- [e] Any other information required by the most current checklist prepared by the town staff in order to conduct their review.
- [f] Any other information deemed by the Planning Board to be necessary to determine conformity of the site plan with the spirit and intent of this Chapter.

[3] Acceptance of Site Plan Application

The Planning Board shall, within forty-five (45) days of a preliminary site plan application being filed, determine whether to accept the application as complete and begin the review process, or to reject the application as incomplete. Incomplete applications shall be returned to the applicant, without prejudice, with a letter stating the applications deficiencies.

[4] Segmentation

The site plan application and associated maps shall include all proposed phases of development. Site plan approval shall be based on the total planned project in order to facilitate the assessment of all potential development impacts. The Planning Board shall consider applications incomplete where there is reason to believe the application applies to only a segment of the total planned development. In such situations, the Planning Board shall return such application to the applicant together with a letter stating the basis for its determination.

[5] Referral to Other Agencies and Boards

- [a] Coordinated Review.** The Planning Board may refer the site plan for review and comment to local and county officials or their designated consultants, and to representatives of federal, state and county agencies, including but not limited to the Soil Conservation Service, the New York State Department of Transportation, the State Department of Environmental Conservation, and the state or county Department of Health, whichever has jurisdiction.
- [b] Required Referral.** Prior to taking final action on the site plan, and where applicable, the Planning Board shall refer the plan to the Livingston County Planning Board for their review and approval, pursuant to Section 239-m of the General Municipal Law.

[6] SEQR Compliance

The applicant shall demonstrate compliance for any actions subject to SEQR prior to site plan approval.

[7] Public Hearing on Site Plan

The Planning Board may conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be held within thirty (30) days of the Planning Board's acceptance of the site plan application and shall be advertised in the town's official newspaper at least five (5) and not more than thirty (30) days before the hearing.

[8] Factors for Consideration During Preliminary Site Plan Review

The Planning Board review of a site plan shall include but is not limited to the following considerations:

- [a] Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.**
- [b] Adequacy and arrangement of pedestrian traffic access and circulation, including separation of pedestrians from vehicular traffic, sidewalks, linkages, control of intersections with vehicular traffic and pedestrian convenience.**
- [c] Location, arrangement, appearance and sufficiency of off-street parking and**

loading areas.

- [d] Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- [e] Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-detering buffer between the proposed use and adjoining uses or properties.
- [f] In the case of an apartment complex or multiple dwellings, the adequacy of usable open space for playgrounds and informal recreation.
- [g] Adequacy of stormwater management and sanitary waste disposal facilities.
- [h] Protection of adjacent properties from noise, glare, unsightliness or other objectionable features.
- [i] Adequacy of water supply facilities.
- [j] Overall impact on the neighborhood, including compatibility of design and effect on the environment.
- [k] Conformance with the Town Master Plan and other plans which the town uses as a guide for appropriate development.

9. Standards for Review and Design

The Planning Board, in reviewing site plans, shall consider the standards set forth below.

- [a] All buildings in the plan shall be integrated with each other and with adjacent buildings and shall have convenient access to and from adjacent uses.
- [b] Individual buildings shall be related to each other and to structures in the surrounding area in architecture, design mass, materials, placement, and connections to harmonize visually and physically.
- [c] Treatment of the sides and rear of all buildings, where appropriate, shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings.
- [d] The design of buildings and the parking facilities shall take advantage of the natural topography of the project site where appropriate.
- [e] All buildings shall be arranged to avoid undue exposure to concentrated loading or parking facilities wherever possible, and shall be oriented to preserve visual and auditory privacy between adjacent buildings.

- (f) All buildings shall be accessible to emergency vehicles.
- (g) Landscaping shall be an integral part of the entire project area, and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.
- (h) Primary landscape treatment shall consist of shrubs, ground cover, and shade trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the Town's environment.
- (i) Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.
- (j) There shall be an adequate, safe, and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking, and loading space.
- (k) Roads, pedestrian walks, and open space shall be designed as integral parts of an overall site design, be properly related to existing and proposed buildings, and be appropriately landscaped.
- (l) Buildings and vehicular circulation areas shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- (m) Landscaped, paved, or other suitable material and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas, and adjacent buildings.
- (n) Materials and design of paving, light fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance, easily maintained, and indicative of their function.
- (o) The light level at the lot line shall not exceed 0.2 foot candles, measured at ground level. To achieve this, luminaries shall be shielded to prevent light from shining beyond the lot lines onto neighboring properties or public ways. Where residential uses adjoin commercial uses, light standards shall be restricted to a maximum of twenty (20) feet in height. In addition, all lighting (except for security purposes) shall be turned off between 11 p.m. and 6 a.m. Exceptions will be granted for those businesses which are operating during these hours.
- (p) Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.
- (q) Parking facilities shall be designed with regard for orderly management, topography, landscaping, and ease of access, and shall be developed as an

integral part of an overall site design.

- [r] Any above-grade loading facility shall be screened from public view to the extent necessary to eliminate unsightliness.
- [s] Off-street parking and loading requirements required in this Chapter shall be satisfied.
- [t] Drainage of the site and surface waters flowing therefrom shall not adversely affect adjacent properties or public roadways.
- [u] All site improvements, where required, shall comply with the requirements of the Americans With Disabilities Act.

[10] Planning Board Action on Preliminary Site Plan

Within sixty (60) days of the Planning Board's receipt of a complete application for preliminary site plan approval the Planning Board shall act on it. If no decision is made within said sixty (60) day period, the preliminary site plan shall be considered approved and the applicant so notified. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved, approved with modifications or approved by default when not reaching a timely decision.

The Planning Board's statement may include recommendations of modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement shall contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

(e) Final Site Plan Review and Approval

- [1] Final application. After receiving approval from the Planning Board on a preliminary site plan and approval for all necessary permits and curb cuts from state and county officials, the applicant may prepare the final site plan and apply to the Secretary of the Planning Board, who shall refer the application, when complete in all respects, to the Planning Board for its review and approval. If more than a year has elapsed since the Planning Board issued its preliminary approval, and if conditions have substantially changed, the Planning Board may require resubmission of the preliminary site plan for possible revision prior to accepting the proposed final plan for review.

[2] Procedure for Final Site Plan Approval

- {a} Within thirty (30) days of the receipt of the final site plan from the Secretary of the Planning Board, the Planning Board shall render a decision on the final site plan.

The time period in which the Planning Board must render its decision on the site plan may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time period specified or agreed upon between the applicant and board, shall constitute Planning Board approval of the site plan as submitted or last amended.

- (b) Approval. Upon approval, the Planning Board shall endorse its approval on a copy of the final site plan and shall immediately file a copy of the final site plan in the Town Clerk's office. A copy of the final plan shall be forwarded to the Code Enforcement Officer, who shall then issue a building permit, if the project conforms to all other applicable requirements. A copy of the written statement of approval shall be mailed to the applicant by certified mail. The written statement shall contain a list of modifications or conditions if required by the Planning Board.
 - {c} Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant by certified mail along with a letter stating the reason's for disapproval.
- [3] Content of the final site plan. The final site plan shall include the site plan construction sheet and a drainage report. Site plan construction sheet shall include:
- {a} All the information required for preliminary site plans.
 - {b} The lines of existing and proposed streets and sidewalks immediately adjoining and within the site, including geometric layout of proposed streets.
 - {c} The names of existing and proposed streets.
 - {d} Typical cross sections of proposed streets.
 - {e} Profiles of proposed streets at suitable vertical scale showing finished grades in relation to existing ground elevation.
 - {f} The layout of proposed buildings, parking areas and any other proposed structures or uses.
 - {g} The location, size and profile of any existing and proposed sewers (stormwater or sanitary), manholes, drain inlets, catch basins, water mains and pipes on the property or into which any connection is proposed.
 - {h} Provisions for water supply and sewage disposal and evidence that such provisions have reviewed approval from the Livingston County Department of Health.
 - {i} Location of survey monuments. Before acceptance of the dedication of the

highways or streets, a certificate by a licensed land surveyor must be filed certifying that the above monuments have been place where indicated on the map.

- {j} Plans and typical cross sections of proposed sidewalks or other pedestrian linkages, if applicable.
 - {k} Development plan, including landscaping, for any proposed park or playground within the site.
 - {l} Specifications or references to town standards for all facilities to be constructed or installed.
 - {m} Certification by a licensed professional engineer, licensed landscape architect and a licensed land surveyor as evidence of professional responsibility for the preparation of the construction sheet.
 - {n} The boundaries of the site and information to show the location of the site in relation to surrounding property and streets, including names and tax account numbers for adjacent sites. In whatever manner is practical, the site boundary shall be referenced from two (2) directions to establish United States Coast and Geodetic Survey monuments or New York State Plan Coordinate monuments. In the event that such monuments have been obliterated, the site boundary shall be referenced to the nearest highway intersections or previously established monuments. Any combination of types of reference points may be accepted which would fulfill the requirement of exact measurements from the boundary to reference points previously established for or by a public agency.
 - {o} The lines and purposes of existing and proposed easements immediately adjoining and within the site.
 - {p} The lines, dimensions and areas in square feet of all property that is proposed to be reserved by deed of the site.
 - {q} A legal description of all areas to be dedicated to the town.
- [4] A final site plan, following approval by the Planning Board, shall be valid for a period of one (1) year from the date of such approval. Upon application, the Planning Board shall have the right to extend any approval for any additional year. If the application for extension is not approved, the Planning Board shall give reasons why this extension was not granted.

(4) Guarantee of Site Improvements

(a) General

Subsequent to the granting of site plan approval, no certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been provided by the applicant for improvements not yet completed.

(b) Performance Guarantee Options

In order that the town has the assurance that the construction and installation of such improvements as storm sewers, water supply, sewage disposal, sidewalks, parking, and access roads will be constructed in accordance with town standards and/or any site plan approval modifications, the Planning Board may require that the applicant enter into one of the following agreements with the town.

- [1] Furnish bond executed by a surety company equal to the cost of construction of such improvements as shown on the plans. Such bond shall be (1) based on an estimate furnished by the applicant, (2) confirmed by the Code Enforcement Officer or Town Engineer, and (3) approved by the Planning Board.
- [2] Deposit certified check in sufficient amount up to the total cost of construction of such improvements as shown on the site plan.
- [3] Provide the town with a letter of credit that is of sufficient amount to cover up to one hundred ten percent (110%) of the total cost of improvements as shown on the site plan.

(c) Conditions

- [1] The performance guarantee shall be to the town and shall provide that the applicant, his/her heirs, successors, assigns, or his/her agent will comply with all applicable terms, conditions, provisions, and requirements of this ordinance; and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.
- [2] Any such bond shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, manner of execution and surety.
- [3] Certified checks shall be made payable to "the Town of Mt. Morris" and will be placed in an escrow account established by the town for this purpose.
- [4] Letters of credit shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, and manner of execution and shall be duly notarized.

(d) Extension of Time

The construction or installation of any improvements or facilities, other than roads, for which a guarantee has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one year from the date of approval of the site plan. Road improvements shall be completed within two (2) years from the date of approval of the site plan. The applicant may request that the Planning Board grant he or she an extension of time to complete such improvements, provided the applicant can show reasonable cause for inability to complete said improvements within the required time. The extension shall not exceed six (6) months, at the end of which time the town may use as much of the bond or check deposit to construct the improvements as necessary. The Planning Board may also grant the applicant an extension of time whenever construction of improvements is not performed in accordance with applicable standards and specifications.

(e) Schedule of Improvements

When a certified check or performance bond is issued pursuant to the preceding sections, the town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However, ten percent (10%) of the check deposit or performance bond shall not be repaid to the applicant until one year following the completion and inspection by the town of all construction and installation covered by the check deposit or performance bond.

(f) Inspections

Inspections during the installation of improvements shall be made by the Code Enforcement Officer to insure conformity with the approved plans and specifications as contained in the contract and this law. The applicant shall notify the Code Enforcement Officer when each phase of improvements is ready for inspection. Upon acceptance final completion of installation and improvement, the Planning Board shall issue a letter to the applicant or his/her representative that provides sufficient evidence for the release by the town of the portion of the performance bond or certified deposit as designated in the contract to cover the cost of such completed work.

(g) Phased Development

The Planning Board may further request, subject to Town Board approval, that the applicant deposit a separate performance bond or certified check for each phase of development proposed. In this event, five percent (5%) of the check deposit or performance bond shall be withheld from the applicant until sixty (60) days following the completion, inspection, and acceptance by the town of all construction and installation covered by such deposit. No subsequent phase of development shall be undertaken until each earlier phase has been completed and approved by the Code Enforcement Officer.

(h) Engineer's Fees

Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with review of a proposed site plan shall be charged to the applicant.

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
 City of SANDS POINT
 Town
 Village

Local Law No. 2 of the year 19 96

A local law Authorizing the Planning Board of the
 (Insert Title)
 Incorporated Village of Sands Point To Review
 And Approve, Approve With Modifications And/Or
 Conditions or Disapprove Site Plans

STATE OF NEW YORK
 DEPARTMENT OF STATE

FILED

NOV 29 1996

Allyn F. Read
 Secretary of State

Be it enacted by the Board of Trustees of the
 (Name of Legislative Body)

County
 City of Sands Point as follows:
 Town
 Village

Section 1. Title.

This local law shall be known and cited as the "Village of Sands Point Site Plan Review Law."

Section 2. Findings; legislative intent.

The Board of Trustees of the Incorporated Village of Sands Point (hereinafter the "Board of Trustees") hereby finds that in order to ensure that future land use, development and construction activities within the Village of Sands Point (hereinafter the "Village") will have a harmonious relationship with the existing or permitted use of contiguous land and with surrounding neighborhoods, and to otherwise promote the health, safety, general welfare, comfort and convenience of the Village and its residents, site plans for new land use, development and construction activities proposed within the Village should be subject to Village Planning Board review.

It is, therefore, the intent of the Board of Trustees, and the purpose of this local law, to establish a procedure for site plan review for new land use, development and construction activities proposed within the Village consistent with and pursuant to Section 7-725-a of the Village Law of the State of New York, and to authorize the Planning Board to review and

(If additional space is needed, attach pages the same size as this sheet, and number each.)

provide it with appropriate standards in its review of all site plans for compliance with certain site plan elements, which include, where appropriate, those relating to parking, means of access, traffic, screening, lighting, signs, landscaping, architectural features, location and dimension of buildings, adjacent land uses and physical features meant to protect adjacent buildings and land uses, as well as any additional site plan elements specified herein.

Section 3. Repealer.

Section 176-54 of the Code of the Village of Sands Point is hereby repealed in its entirety.

Section 4. Authority of Planning Board.

- A. Pursuant to Village Law, § 7-725-a, the Planning Board is hereby authorized to review and approve, approve with modifications or disapprove site plans submitted in accordance with the standards and procedures set forth in this local law.
- B. Upon approval of a site plan, the Planning Board may impose reasonable conditions and restrictions as are related to and incidental to the proposed site plan. Thereupon, such imposed conditions must be met before the issuance of permits by applicable enforcement agencies or officials of the village.

Section 5. Activities requiring site plan review; approval required.

- A. Except as otherwise provided in this Code, the following applications for land use, development and construction activities within the Village shall require site plan review and approval:
 - (1) All new dwellings or other principal structures and land uses permitted in the Residence A District, Residence B District and Residence C District.
 - (2) All buildings, structures and land uses accessory to a residential land use permitted in the Residence A District, Residence B District and Residence C District, prior to the issuance of a Certificate of Occupancy for the principal building or structure.
 - (3) All buildings, structures or land uses accessory to a non-residential land use permitted in the Residence A District, Residence B District and Residence C District.
 - (4) All new buildings, structures or land uses for which a use variance has been granted.

- (5) Any addition to or reconstruction of all or part of a principal structure which (a) equals or exceeds fifty (50%) percent of the square footage of the gross floor area of the structure as originally constructed or as last modified pursuant to site plan approval, or (b) equals or exceeds a gross floor area limitation imposed by decision of the Planning Board. As used in this local law, "gross floor area" shall be calculated in accordance with the definition of that term as set forth in Section 176-2(B) of this Chapter.
- (6) Any reconstruction of a principal structure damaged by fire or other incident, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure at the time the damage occurred.

B. No building permit for a building or structure subject to site plan review shall be issued by the Building Department except upon authorization of and in conformity with a site plan approved by the Planning Board.

Section 6. Application requirements.

A. Applications for site plan approval shall be submitted to the Village Clerk, as Secretary of the Planning Board, after appropriate review of a building permit application by the Building Department and at least thirty (30) days prior to the Planning Board meeting at which the site plan is to be considered and, except as otherwise provided herein, shall include twelve (12) copies of each of the following items, to be submitted in separate and complete sets:

- 1. Application form for site plan review, in form and substance satisfactory to the Building Department.
- 2. Site survey, showing all existing structures, prepared, signed and sealed by a licensed land surveyor.
- 3. Site plan for the proposed land use, drawn at a scale of not less than one (1) inch equals twenty (20) feet, signed and sealed by a licensed architect or engineer, and which shall include the following information:
 - a. A title block located in the lower right-hand corner of the site plan and shall include the name and address of the applicant and record owner of the property, the property's designation on the Nassau County Land and Tax Map, and the title of the project. If the applicant or property owner is a corporation, the name and address of the president and secretary shall be submitted with the application.

- b. A date block of the site plan adjacent to the title block containing the date of preparation and dates of all revisions.
- c. A key map showing the location of the property with reference to surrounding areas and existing street intersections within one (1,000) feet of the boundaries of the subject premises.
- d. A written and graphic scale, as well as a North arrow.
- e. Zoning District boundaries shall be shown on the site plan as they affect the parcel.
- f. Survey data showing boundaries of the property, required building and setback lines and lines of existing and proposed streets, lots, reservations, easements and areas dedicated to public use, including grants, restrictions and rights-of-way.
- g. Reference to any existing covenants, restrictions, easements or exceptions that are in effect or are intended to cover all or any of the property. A copy of such covenant, restriction, easement or exception shall be submitted with the application. If there are no known covenants, deed restrictions, easements or exceptions affecting the site, a notation to the effect shall be indicated on the site plan map.
- h. Location of existing structures on the site. The plan shall contain a notation indicating any structures that are to be removed.
- i. All distances, as measured along the right-of-way lines of existing streets abutting the property, to the nearest intersection with any other street.
- j. Location plans and elevations of all proposed structures.
- k. Location of all existing and proposed driveways, walkways and impervious surfaces located on the property.
- l. Location of all existing storm drainage structures, soil erosion and sediment control devices and utility facilities, including electric, water, telephone and cable television, which are located within the property lines.
- m. Existing and proposed contours according to U.S. Geodetic Survey Datum at intervals not to exceed two (2) feet. Existing

contours are to be indicated by solid lines; proposed contours are to be indicated by dashed lines.

- n. Existing elevations of the road or right-of-way contiguous to the site.
- o. The location of all existing significant natural features such as boulders, rock outcrops, water courses, depressions, ponds, marshes, and other wetlands, whether or not officially mapped.
- p. All proposed streets, with profiles indicating grading and cross-sections showing width of roadway, location and width of sidewalk, if any, and location and size of utility lines.
- q. All means of vehicular ingress and egress to and from the site onto public or private streets, showing the size and location of driveways and curb cuts and sidewalks, if any.
- r. All provisions for pedestrian access to the site and internal pedestrian circulation.
- s. The location and design of any off-street parking areas, loading or outdoor storage areas.
- t. The location of all proposed water lines, valves and hydrants and all sewer lines or alternative means of water supply or sewage disposal and treatment.
- u. The proposed location, direction of illumination, power and time of proposed outdoor lighting.
- v. The location, design and type of construction of all proposed signs.
- w. The proposed stormwater drainage system.
- x. Structural elevation calculations.
- y. Zoning calculations.
- z. Illustration of all proposed structures as they relate to sky exposure plane.
- aa. Delineation of Flood Plain Zone as shown on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and adopted by the Village of Sands Point.

- bb. Delineation of Coastal Erosion Hazard Area, if the property is located within the village-designated Coastal Management Zone.
 - cc. Delineation of tidal and freshwater wetlands areas as designated by the New York State Department of Environmental Conservation.
4. Landscaping Plan, drawn at a scale of not less than one (1) inch equals twenty (20) feet and which contains the following information:
- a. Outlines of all existing and proposed structures, driveways, walkways and impervious surfaces to be located on the property.
 - b. The location of all existing significant natural features such as boulders, rock outcrops, water courses, depressions, ponds and marshes.
 - c. The location of all trees, identified by type or species and size, bearing a trunk circumference greater than twenty (20) inches measured at a point four (4) feet Six (6) inches above ground level.
 - d. The location of all trees, shrubs and/or any vegetation, identified by type or species, which are to be removed.
 - e. The location of all trees, shrubs and/or any vegetation, identified by type or species, which are to be preserved.
 - f. Location of all trees, shrubs and/or other vegetation, identified by size, height and type or species, which are to be provided.
 - g. A separate list of all trees and shrubs identified by size, height and type or species that are to be removed and/or to be provided.
5. Photographs (two sets only) of existing structures of the property and surrounding landscaping/screening.
6. Environmental assessment form completed and signed by the applicant.
7. Original building permit application which was reviewed by the Building Department.
8. Building Department's memorandum of review.

9. Identification of all required permits or approvals from the Village or any other governmental body, and a record of application for and status of such permits or approvals.
10. List of the names of all owners of property contiguous to the subject premises, and if the subject premises is adjacent to a private road, the owners of all other properties adjacent to the private road, together with section, block and lot numbers of said property, as shown on the current tax roll of the Village.
11. Certificate of title and deed(s) for the existing lot(s).
12. Letter from the Sands Point Water District regarding availability of water to the site (for new structures only).
13. All appropriate permit fees, charges and deposits required by the Village pursuant to Chapter 82 of the Village Code.
14. Any other information found by the Planning Board or Building Department to be necessary to reasonably determine compliance of the site plan with this local law and Village Law, § 7-725-a.

- B. The Building Department may waive any of the above requirements it determines to be unnecessary for the appropriate review of a particular application but such waiver shall not be binding upon the Planning Board.

Section 7. Considerations included in review.

- A. In reviewing any application for site plan approval, the Planning Board shall be guided, as appropriate, by the following general and specific considerations:

1. The location, arrangement, size, design and general site compatibility of buildings and structures.
2. The adequacy and arrangement of vehicular access and circulation. All driveways to a public or private street shall be so located to afford maximum safety to said roadway and to provide for safe and convenient ingress and egress and to minimize conflict with the flow of traffic, and shall be designed to permit emergency vehicles and service vehicles such as delivery trucks, solid waste collection vehicles and the like to have reasonable access to and space for their intended functions.
3. The adequacy and arrangement of off-street parking, loading and outdoor storage.

4. The adequacy and arrangement of pedestrian traffic access and circulation.
5. The adequacy of storm water and drainage facilities. Provision shall be made for the drainage of surface runoff waters in and from the premises so that flooding and erosion of the property and the property of others will be prevented.
6. The adequacy of water supply and sewage disposal facilities.
7. The adequacy, type and arrangement of trees, shrubs and other landscaping and natural screening constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
8. The adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
9. Protection of adjacent or neighboring properties against noise, glare, unsightliness and nuisances.
10. The overall impact of the proposed development on the neighborhood and surrounding uses, including compatibility of architectural and design considerations.

B. The Planning Board shall not approve a site plan application unless it finds affirmatively that the building or structure, if constructed, erected, reconstructed or altered in accordance with the submitted plan, will not:

1. be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or striking visual discord in relation to the sites or surroundings;
2. mar the appearance of the area;
3. impair the use, enjoyment and desirability and reduce the value of properties in the area;
4. be detrimental to the character of the neighborhood;
5. prevent the most appropriate development and utilization of the site or of adjacent land; and
6. adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the entire community.

Section 8. Public hearing.

The Planning Board shall conduct a public hearing with regard to every application for site plan review within sixty two (62) days of the date the application is found to be complete by the Planning Board.

Section 9. Notice of public hearing.

Applicant shall mail notice of the public hearing to the owners of all properties contiguous to the subject premises, and if the subject premises is adjacent to a private road, to the owners of all other properties adjacent to the private road, at least ten (10) days prior to such hearing, and the village shall cause notice of the public hearing to be published in the official newspaper of the village at least five (5) days prior to such hearing.

Section 10. Decisions.

- A. The Planning Board shall render a decision on each site plan application within sixty-two (62) days after the public hearing portion of the review procedure is closed.
- B. The Board's decision shall be filed in the office of the Village Clerk within five (5) business days after such decision is rendered and a copy mailed to the applicant.
- C. The time period in which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.

Section 11. Judicial review.

Any person aggrieved by a final site plan determination by the Planning Board may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the Village Clerk.

Section 12. Waiver of requirements.

Any requirement for the approval or approval with modifications and/or conditions of site plans submitted for approval may be waived by the Planning Board, upon a finding that such requirement is not in the interest of the public health, safety or general welfare, or is inappropriate to a particular site plan.

Section 13. Adoption of further rules and regulations.

The Planning Board may, consistent with this local law, adopt such further rules and regulations, after public hearing, as it deems reasonably necessary to carry out the provisions of this chapter.

Section 14. Application for area variance.

Where a proposed site plan contains one or more features which do not comply with the bulk and area requirements of the Village Building Zone Ordinance, applications may be made directly to the Board of Appeals for an area variance, without first obtaining a final decision or determination by the Building Department.

Section 15. Extension of original jurisdiction; amendments; authority to rescind site plan.

- A. Until a certificate of occupancy or certificate of completion has been issued with respect to each construction, reconstruction, alteration, addition or improvement contained within an approved site plan, the Planning Board shall have continuing jurisdiction to review and act upon a site plan including any and all amendments to the approved site plan.
- B. The Planning Board shall review and act upon an application for an amendment to an approved site plan, in the same manner as the review of an original site plan.
- C. In the event that it is determined that unauthorized changes have been made to an approved site plan, the Planning Board may rescind its prior site plan approval in its entirety or in part.

Section 16. Compliance with other applicable provisions required.

Unless otherwise indicated, all construction, reconstruction, alterations, additions, improvements or placement, relocation or removal of fill in excess of fifty (50) cubic yards, included in or required by a proposed site plan, shall comply with all other applicable ordinances, local laws, rules and regulations of the Village and any other governmental entity.

Section 17. Penalties for offenses.

For any and every violation of the provisions of this local law, the owner, general agent or contractor of a building or premises where such violation has been committed or

shall exist, and the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, and the general agent, architect, builder, contractor or any other person who knowingly commits, takes part or assists in any such violation or who maintains any building or premises in which such violation shall exist, shall be liable for a fine not exceeding three hundred fifty dollars (\$350.) or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine of not less than three hundred fifty dollars (\$350.) nor more than seven hundred dollars (\$700.) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine of not less than seven hundred dollars (\$700.) nor more than one thousand dollars (\$1,000.) or imprisonment for a period not to exceed six (6) months, or both. Such penalties shall be collected as provided by law. Each week's continued violation shall constitute a separate, additional violation.

Section 18. Security for performance.

A. The Planning Board may condition site plan approval upon the applicant's submission to the Village Clerk of a cash deposit, performance bond, or irrevocable letter of credit, in an amount determined by the Planning Board after recommendation from the Village Engineer, which amount shall be sufficient to ensure that all improvements and landscaping, as shown on the approved site plan, shall be completed and to ensure against damage to the infrastructure, including public and private roads and drainage structures.

B. If public improvements are required, a separate cash deposit, performance bond, or irrevocable letter of credit, in an amount determined by the Planning Board after recommendation from the Village Engineer, which amount shall be sufficient to ensure that all required public improvements shall be completed.

C. Any bond required to be posted in connection with a site plan approval shall include the language set forth in Village Code, § 82-14.

D. No performance bond or irrevocable letter of credit shall be accepted by the Village Clerk unless approved as to form and substance by the Village Attorney.

Section 19. Expiration of site plan approval.

Site plan approval shall automatically terminate one (1) year after the resolution granting approval is filed in the office of the Village Clerk, unless a building permit has been issued thereon.

Section 20. Severability.

If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which such judgment shall have been rendered.

Section 21. Effective date.

This local law shall take effect immediately upon filing with the office of the Secretary of State, and, as to site plans filed prior to the public hearing on this local law, the rules and regulations in effect at the time of filing shall govern the site plan approval process.

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Site Development Plan Review

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Site review procedure and guidelines

Introduction

The site development review process is one of several means of plan implementation that communities may utilize. It is commonly considered supplemental to other land development guidance controls.

Since most land in New York State is in private ownership, municipalities have been delegated a variety of powers to enact land development controls. The most common of these are the powers of zoning and subdivision control, which are exercises of the police power. Zoning enables communities to regulate land uses and population densities based on comprehensive land development planning. Subdivision control allows communities to effect satisfactory physical design and site improvement of privately owned lands to be subdivided, usually for residential development purposes.

An aspect of development control frequently neglected by communities in the past concerns the improvement of lands intended for nonresidential or multi-family housing purposes. In many of these cases, the lands are to be developed and remain in single ownership and, therefore, do not fall within the scope of the subdivision review powers. To overcome this gap in their development review capabilities, an increasing number of municipalities have added site review components, applicable to an array of uses, to their development regulations. Initially introduced in urban areas, the concept has more recently spread to other parts of the State. Most communities which have adopted site development plan review procedures have done so within the framework of their zoning regulations.

The site development plan specifies the present characteristics of a particular parcel of land and its surroundings and describes intended activities and their potential impact on the community. The terms “site plan” and “site development plan” are interchangeable. The latter is generally used in this paper since it defines the intent of the “plan” and the review process more accurately.

Site development plans have two functions. First, they illustrate the intended design, arrangement and uses of the land to be improved. Second, they describe the proposal’s physical, social and economic effects on the community.

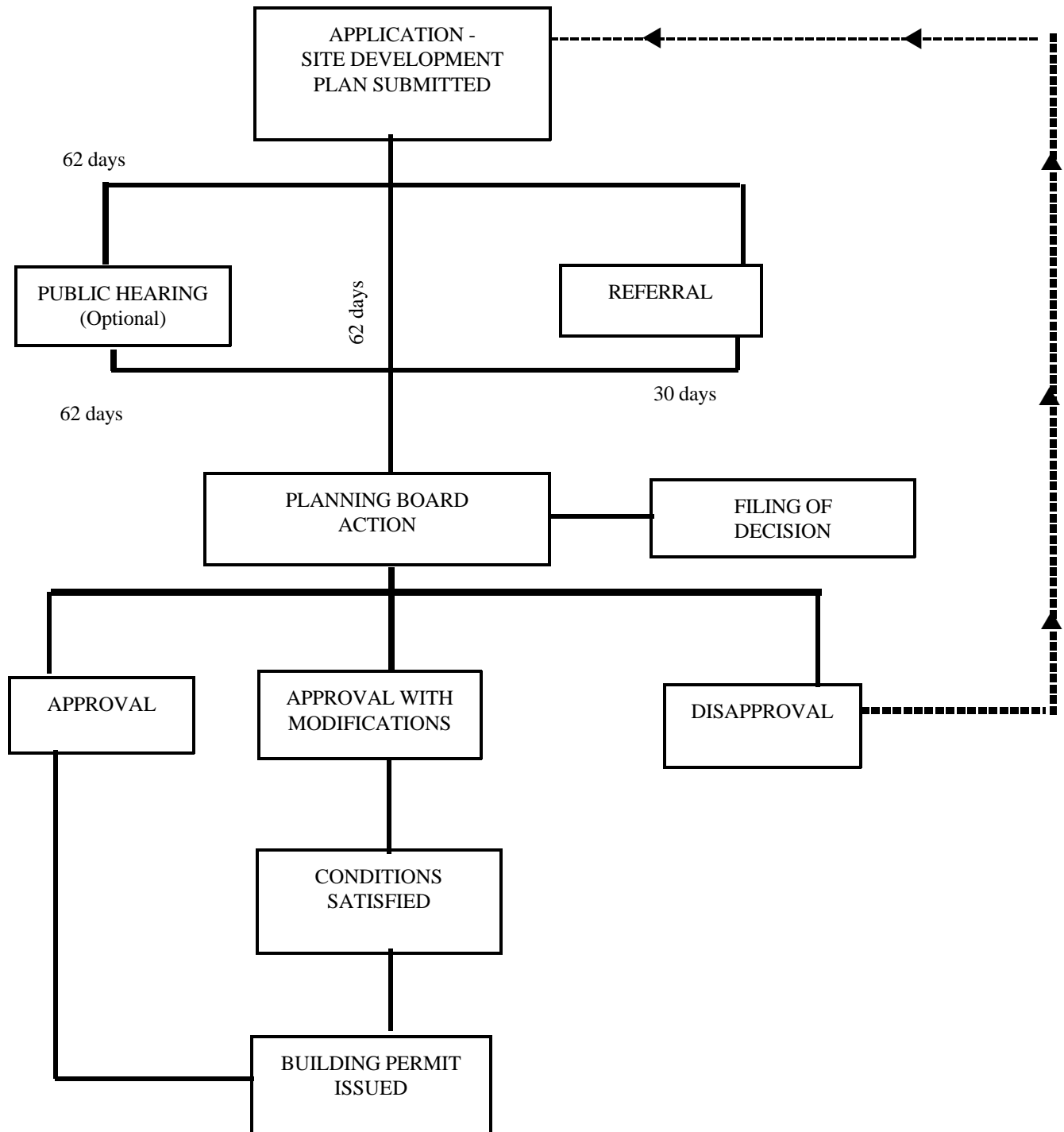
The plans may be in either or both narrative and graphic form, as appropriate. Information on factors such as the following may be the subject of concern in the site development review process: means of access, parking, landscaping, buffers, architectural features, location of structures, impact on adjacent land uses and other elements related to the health, safety and general welfare of the community.

Site plan reviews can include both small and large scale proposals ranging from gas stations, drive-in facilities and office buildings to complex ones such as shopping centers, apartment developments and planned unit developments. In the case of a drive-in facility such as a fast food restaurant, bank or neighborhood convenience retailer, the community might be most concerned with providing adequate access without disrupting traffic flow on the adjacent road or with minimizing visual confusion as is often produced by advertising signs. If, on the other hand, the municipality is faced with a large scale proposal, such as a shopping center, other factors may be more important. These include impacts on the surrounding natural environment, transportation system and land uses.

Within the site, the prime concerns might include minimizing ecological disturbances, provision of separate parking and loading arrangements, ensuring pedestrian safety and the aesthetic relationship of the proposed structures to the site. Thus, the site development review process permits municipalities to analyze development proposals in terms of their impacts on local growth and the need for facilities and services.

Until recently, the State’s enabling legislation did not provide for planning boards in the site development plan approval process except in an advisory capacity. The communities which used the process were, therefore, legally limited to designating the zoning board of appeals or the legislative body for decision-making purposes. In 1976, however, the State Legislature amended the General City, Town and Village laws to make it possible for planning boards to take final action on proposed site development plans. Those same site plan enabling statutes were again extensively revised, effective for towns and villages in 1993, and for cities in 1994, so that any municipal board may be designated by the governing

Figure 1
Basic Site Development Plan
Review Procedure



body to review and approve site plans. (General City Law, section 27-a; Town Law, section 274-a; Village Law, section 7-725-a. The text of the law can be found in its entirety in Appendix A.)

The framework within which this delegation of authority is cast may be critical to its impartial and efficient implementation. The power to approve site development plans may be delegated to a planning board or other board within the context of a zoning ordinance or local law or as a separate local law. Throughout this publication, the planning board will continue to be referred to as the board which reviews site plans. It should, however, be understood that this merely reflects the fact that planning boards are the bodies most commonly vested with such authority. In fact, any other board may now be given site plan approval power.

Several problems are inherent in the use of site development review without zoning regulations. First, this approach has not been tested in any litigation and a court would carefully scrutinize such a local law to assess whether adequate constraints could be placed upon the exercise of this power without zoning regulations. Second, the planning board would be required to assess the desirability of a particular site development plan without any commitment by the municipality as to the character of the surrounding property. Lastly, the employment of site development plan review should be considered a safety mechanism within the context of applying the community's comprehensive land use regulation. Communities which currently have no zoning controls should therefore give careful consideration to postponing the enactment of site development review regulations until they can be integrated within the comprehensive control scheme that zoning regulations provide.

The site development aspects of the zoning ordinance or local law must specify the uses for which approval is needed and the components to be included in the plans. Specific review criteria should be stated in the zoning regulations. However, if the planning board is granted the review power, criteria could be stated generally in the ordinance or local law, supplemented with detailed rules and regulations of the planning board. Such rules and regulations would be developed and adopted by the planning board and approved by the local legislative body.

Before drafting the site development plan provisions, the municipality must decide how broad an array of uses will be subject to review. This can be accomplished in several

manners. First, the land uses to be subject to review could be identified by zoning district within the general use provisions. Second, they could be identified by zoning district within the supplemental regulations or a special article applicable to site development plan review. Third, certain uses could be subject to review regardless of the zoning district or location. Reviews might also be tied to areas having specialized use restrictions such as flood hazard, coastal or historic preservation zones.

The review procedures and submission requirements for site development plan reviews can be provided for in a completely separate article of the zoning ordinance or local law. Alternatively, they can be made a part of the supplemental regulations article.

Public hearings are not required in the site development plan review process except where the zoning board of appeals is designated as the final site development plan approval body, in which case such a hearing is mandated by state law. A municipality, however, has the option of requiring a hearing. Hearings could be required for all site development plan applications or only for certain types if the latter are defined in the regulations. A public hearing is beneficial because it allows interested parties, besides applicants and local officials, to voice opinions on the proposal.

The statutes allow for prior approval of a proposal by a planning board under a site development plan approval procedure to be conditional for the issuance of a building permit.

The enabling laws offer additional flexibility in the selection of a review board and a procedure most appropriate to a community's individual needs and resources. (Prior to their original enactment in 1976, a community, through its zoning ordinance or local law, could designate either the local legislative body or the zoning board of appeals to grant final approval of site development plan proposals.)

If the local legislative body, such as the town or village board, retains approval power, it is free to develop any justifiable approval procedure and standards. (See *Lemir Reality Corp. v. Larkin*, 1962, 11 N.Y.2d 20; *Green Point Savings Bank v. Board of Zoning Appeals*, 1939, 281 N.Y.534.)

If the zoning board of appeals is delegated approval power, the board is limited to using the procedure established for it by the State's planning and zoning

enabling legislation. (General City Law, section 81-a, effective July 1, 1994; Town Law, section 267-a; Village Law, section 7-712-a.)

If the planning board (or other authorized board) is delegated approval power, this action is taken pursuant to the site plan enabling statutes, which also establish the procedure to be used for approval. For example, where authorization to control site development approvals is given to the planning board in accordance with the recently modified General City, Town and Village laws, the maximum time between receipt of the proposal and the board's decision is specified in the statutes.

Several significant changes have been made to the revised statutes effective in 1993 in towns and villages, and in 1994 in cities. First, provision is made for a direct application to the zoning board of appeals in the event an area variance is needed from a strict dimensional requirement of the zoning ordinance, without the applicant's first having to receive a decision from the enforcement official. Second, provision is made for the planning board to require a set aside of recreational land or cash in lieu thereof, similar to the procedure allowed for many years in subdivision applications. Third, the statutes expressly reference the need to comply with both county, metropolitan or regional referral under the General Municipal Law, as well as with State Environmental Quality Review Act procedures under Article 8 of the Environmental Conservation Law.

Review procedure

The review procedure described in this publication is focused primarily on utilizing the site plan enabling sections of Town, Village and General City Laws as its basis.

These statutes have been designed primarily to incorporate the review procedure in a community's existing or proposed zoning ordinance or local law. They enable planning boards to approve site development proposals and to set up a single-phase approval procedure which can be divided into submittal of application, optional hearing and decision components. This is shown in Figure 1. Other steps can be added if it is determined that they can provide better safeguards to the community and enhance local interaction with the applicant. However, additional steps would have to be informal in nature (i.e., optional with the applicant) if they are administered by the local planning board in accordance with the Town, Village or

General City Law.

Alternatively, formalization of a mandatory multi-phase procedure is possible if the site plan review regulations are adopted by local law in accordance with the Municipal Home Rule Law. Thus, a number of legal options are available to institute site development plan review either within the framework of zoning controls or as a supplement to them.

The statutes make it possible to develop a single-phase review procedure that merely requires submittal of an application containing the necessary information to permit a municipality to make a rational decision on a site development plan proposal. On the other hand, a multi-phase procedure can be developed allowing for a maximum of interaction between the applicant and the community. The latter approach, though it may be partially informal, is more likely to enable the site development plan to satisfy the objectives of all concerned parties. It is the preferred approach for the review of most larger site development proposals.

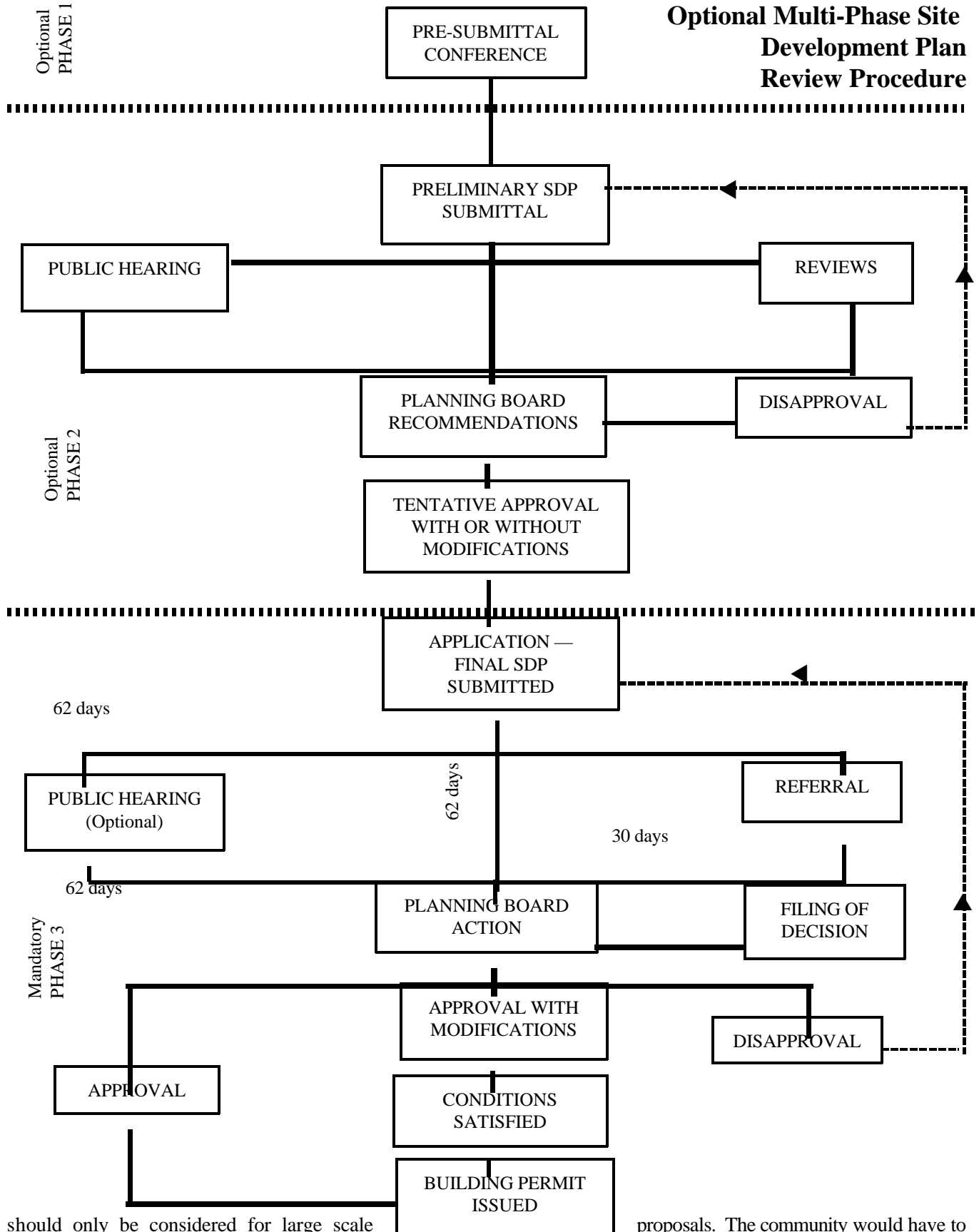
It should be noted, though, that the lengthy time span occasioned by a multi-phase review procedure can often be costly and otherwise harmful, especially to a small developer. This is especially true in communities using a three-phase procedure.

A two- or three-phase procedure, similar to that commonly employed for reviewing subdivision plats, could be used for reviewing proposed site development plans. If the planning board is charged with approving subdivision plats as well as site development plans, the use of parallel procedures may be justified for a number of reasons. They include the relative ease of following similar steps and the potential for conducting simultaneous reviews and hearings in cases of large scale proposals such as planned unit developments. Figure 2 shows the multi-phase procedure.

If a three-phase approval process is utilized, it would include presubmission, preliminary submission and final submission phases. Each of the steps are time consuming by themselves. In addition to them, the lag time between phases must also be considered. The inclusion of a preliminary submission phase, therefore,

Figure 2

**Optional Multi-Phase Site
Development Plan
Review Procedure**



establish appropriate benchmark criteria for this purpose in its regulations.

Many communities in the State appear to be settling upon the two-phase procedure as the most satisfactory approach to site development plan review, namely, the presubmission and final submission phases. This is an appropriate choice since it provides a means for ensuring adequate safeguards for the community and also protects the developer from excessive money and time investments prior to site plan approval.

It should be reemphasized that the enabling legislation provides no authority to the local government to mandate a presubmission conference or a preliminary approval phase. However, the review procedure should be tailored to the regulatory needs of the community and each step of the recommended procedure, from presubmission conference to final approval, should be given careful consideration at the time the controls are drafted. The procedure to be followed should be clear so that all parties understand it.

Appendix B is a site development plan review procedure that can be adapted for use as part of a zoning ordinance or local law. The regulations in Appendix C are illustrative of a separate site development plan local law.

Presubmission conference

The purpose of the presubmission conference is to give both the municipality and the applicant an opportunity to gain a better perspective on the ramifications of the proposal. This step does not constitute formal submission of an application. It is beneficial to both parties because the community will gain knowledge of the developer's intent and the developer will learn his responsibilities before either is committed to significant outlays of time and money.

At this conference the applicant should provide the reviewing board with basic data regarding the proposal. At a minimum, this should include a map showing the important existing natural and man-made features in and around the site and a sketch plan showing the major features of the proposed development. This information can then form the basis with which the municipality can advise the applicant on the next steps required to gain final site development plan approval and of the necessary data that will have to be provided with the application.

Preliminary site development plan phase

If preliminary as well as final site development plan phases are used, the former would be more important because it is here that the more substantive reviews and recommendations should be made. It also gives the applicant-developer added assurance that the final submission will be adequate for board consideration and rapid approval.

The preliminary review phase would also be considered informal in the overall review process, but it can be desirable because it gives the municipality and the developer greater opportunity to reach agreement on areas of potential conflict. The steps followed for performance of the preliminary site development plan review phase should be similar to those detailed below describing the final review process. This phase should consist of (1) application submission, (2) municipal review, (3) optional hearing and (4) local government decision.

Site development plan phase (final)

This phase begins the formal review process and contains the steps included in the previously described state enabling legislation.

The reviewing board should set a maximum time limit between the presubmission conference and the next phase. Three to six months is a reasonable time frame for this purpose. The municipality should have the option to require resubmission of the requirements for the previous phase if more time has elapsed than specified in the regulations, especially if it is found that significant changes have occurred in the community during the interim. A similar time frame should also be established between the preliminary and final phases, if applicable.

Application. The phase begins with the submission of an application for site development plan approval from the developer. It should be made in writing, preferably on a form provided for this purpose by the municipality. Appendix D is a sample application form.

The application should be accompanied by information about the proposal, including legal data, impact on its environs, natural features, existing development and infrastructure and the site development proposal. The specific types of information to be provided by the applicant should be identified as submission requirements in the municipality's site development plan regulations.

Much of the data can be provided in mapped form. If variations from the submission requirements are to be granted, they can be mutually agreed upon by the applicant and the locality at the presubmission conference or other initial contact.

Certain submission requirements such as a record of the application and approval status of all necessary state and county permits, an estimated project construction schedule and additional specifications for materials of the proposed site improvements should also be included with the final application submission, but are generally unnecessary for the preliminary phase. Typical submission requirements are discussed below.

The application could be submitted to the clerk of the reviewing board or other designated local official as provided for in the regulations. It will be the task of the enforcement officer to certify that the proposal meets the requirements of the zoning regulations other than those tied specifically to the site development plan section.

Expert assistance. The members of a lay board may not have sufficient time or expertise to perform a comprehensive site development plan review analysis. If the community does not have a professional planning staff, the board or commission will have to look elsewhere for technical assistance. If the municipality employs a professional planning staff, the staff should conduct the technical aspects of the basic site development plan evaluation. This type of review can also make use of expert resources such as legal, engineering and environmental specialists. As with other types of reviews, the municipality should avail itself of assistance from its county or regional planning agency, as appropriate. Where there is no professional government planning aid available, recourse to a private consultant should be considered. All comments and recommendations should be made in writing to the designated reviewing authority.

The submission requirements cover much of the data base upon which the proposed site development plan is reviewed. It is most important that the community has a completed and up-to-date comprehensive development plan and a land capability analysis that provides data on development limitations, critical areas and unique features.

The expenses incurred by the applicant at this stage to provide the needed information further justifies the presubmission contact since he will gain prior knowledge of the local agency's requirements. The community should not have to request additional data from the

developer unless special site problems are discovered subsequent to the initial submission.

Referral. The approval of a proposed site development plan constitutes a special authorization within the framework of local zoning regulations. The application is therefore subject to referral by the municipality to the appropriate county or regional planning agency in accordance with the requirements of sections 239-l and 239-m of the General Municipal Law, prior to final action. If, however, a hearing is required, such referral must be made at least 10 days prior to the hearing.

Public hearing. A public hearing may either be required by the applicable regulations, or even if not required, the planning board may exercise its discretion to hold a hearing on any particular application. In any case, the planning board and its experts should have completed their review of the application prior to holding the public hearing. The hearing is advantageous because it allows the public a formal opportunity to state its views. The planning board will find that the hearing can be a means of providing more information and perspectives on the probable effects of the proposal. Residents and owners of nearby properties often have intimate knowledge of existing conditions which may be vital to the proposed site development concept and they may be able to suggest design or other modifications concerning the proposal which may not have been recognized by others.

Decision. The next step is for the local governmental reviewing authority to reach a decision on the site development plan proposal. By this stage, the board should have developed a broad basis for making a decision which should include the information provided with the application, the recommendations of various expert reviewers and the views of affected residents and the public at large.

The statutes which authorize legislative bodies to grant the planning boards power to take final action on site development plan proposals stipulate a maximum interval of 62 days between submission of an application for final approval and a decision. If a public hearing is required by the regulations, however, then the hearing must be held within 62 days of receipt of the application, and a decision must be rendered within 62 days following the hearing. Notice of the hearing must be published in a newspaper of general circulation at least five days in advance.

The board must approve, approve with modifications or disapprove the proposal within the specified time. The

board's decision must be filed with the municipal clerk within five business days, and a copy mailed to the applicant. If the board fails to act within the prescribed time, or where any person is aggrieved by the board's decision, the aggrieved party may apply to the State Supreme Court for review under Article 78 of the Civil Practice Law and Rules. It should be remembered that an approval with modifications is not a "suspended" approval. No further action is required by the planning board; failure to abide by the plan as modified should, however, subject the applicant to enforcement penalties.

The planning board may require the developer to guarantee completion of public improvements such as roadways and landscaping within a reasonable time. This can be enforced through the posting of a performance bond or similar means of assurance if provided for in the zoning ordinance or local law. If the developer fails to properly carry out the improvements prior to the expiration of the bond, the municipality should be able to take foreclosure action. The guarantee can be required only if it is included in the site development plan ordinance or local law.

If a preliminary phase is included in the municipality's review process, board action for this phase should be *tentative approval*, *tentative approval with modifications* or *disapproval*. If approval or approval with modifications is tentatively given, the next step will be submission of a final application, including the necessary documentation for final approval. In this case, the board's modifications should be satisfied in the final application. Disapproval will require the resubmission of a preliminary application if the applicant desires further consideration of the plan.

When both preliminary and final approval phases are utilized by the municipality, the latter serves to resolve residual disagreements between the applicant and the locality and also to assure that any required modifications from the preliminary phase have been satisfied. The most substantive and detailed technical review of the proposal should have occurred during the preliminary phase. Thus, the final approval phase can be viewed as a check on the tentatively approved preliminary site development plan. The board must determine that the proposal is in substantial agreement with the previous submission and that all required modifications have been incorporated. New information should be thoroughly reviewed and analyzed to determine its acceptability and compliance with the regulations.

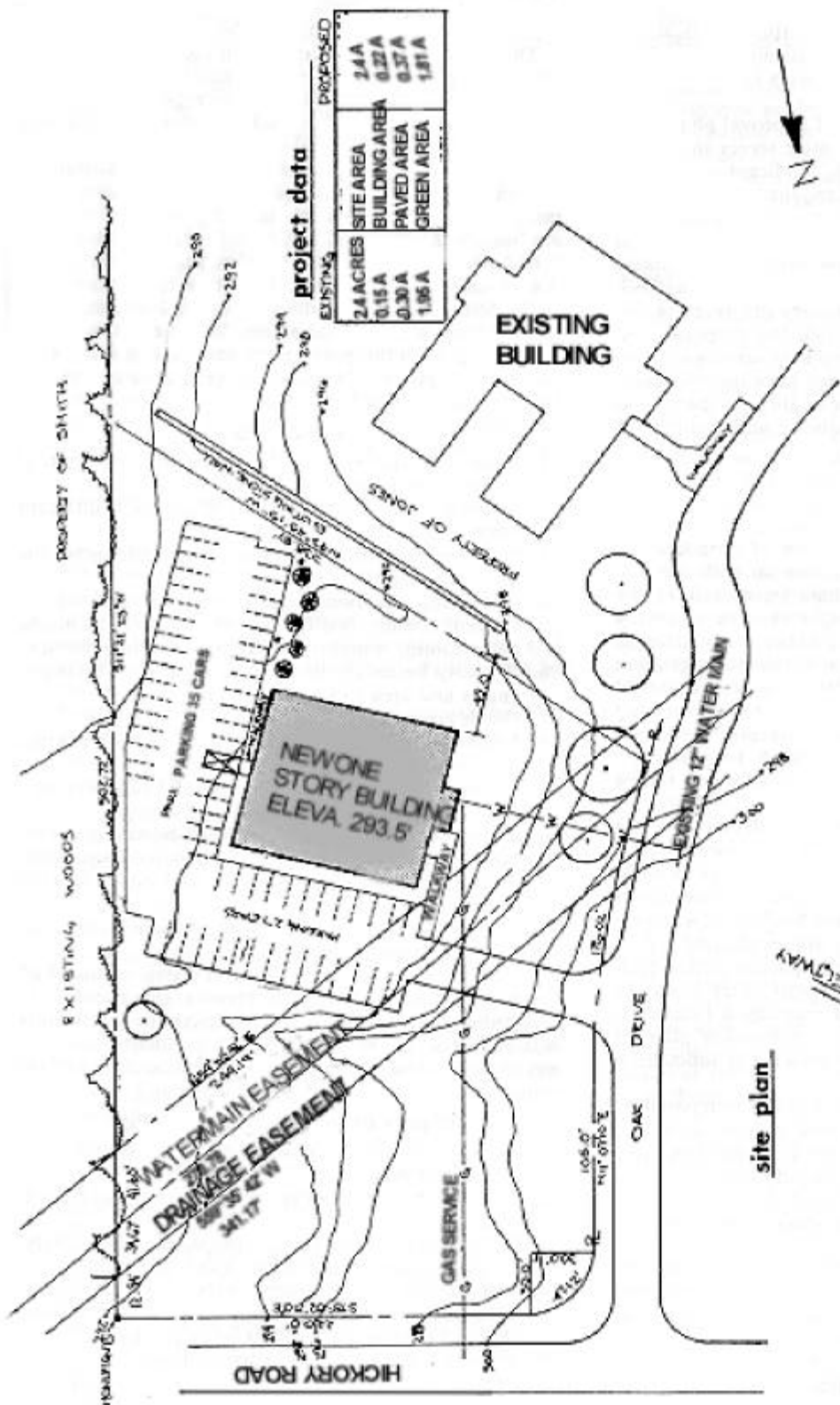
Submission requirements

Local officials involved in the review of proposed site development plans should be very familiar with the subject of their review, namely, the characteristics of the site and its impact on the surrounding area. The reviewing agency, enforcement officer and other local officials should have information easily available to help them evaluate a proposal. This material could include aerial photographs, engineering data and various maps showing topography, soils, wetlands and other features of the site. Such information could be consolidated, to produce a land capability map -- a helpful tool to assist the review process.

By living and working close to a particular site, the local officials may also have acquired additional "seat of the pants" knowledge about their surroundings to guide them in the evaluation process. This type of information is valuable, but to assure that a basic level of information is available to all those reviewing and evaluating a proposed site development plan, the applicant should provide the reviewing agency with a satisfactory basis for making its recommendations and reaching a final decision. To guide the applicant, site development plan review process materials should contain a list of submission requirements.

The site development plan map should be prepared by a qualified professional such as a land planner, architect, landscape architect, civil engineer or other similarly skilled person. The plan should include those elements deemed appropriate for the proposed development. An Illustrative Site Development Plan map is shown in Figure 3.

State law allows local regulations to specify the site development plan components which must be submitted for approval. These components can be categorized generally as: (1) legal data, (2) impact on the environs, (3) natural features, (4) existing man-made features, and (5) proposed development. The ordinance or local law



site plan



ILLUSTRATIVE SITE DEVELOPMENT PLAN

SITE PLAN	
REVISIONS	ACME COMMERCIAL
DATE	OAK ROAD, ANYWHERE, NY
SCALE 1" = 100' 0 20 40 60 80 100	
DATE: FEBRUARY 7, 1983 CUSTOM ENGINEERS OAK ROAD, ANYWHERE, NY	

can identify the submission requirements in either general or specific terms. If they are stated in general terms, the detailed review requirements can be spelled out in the regulations promulgated by the planning board.

The waiver of certain submission requirements is possible. However, in order for the planning board to waive any of the requirements listed in the regulations, the ordinance or local law should include criteria for granting a waiver.

The reviewing agency should develop a checklist in accordance with its plan submission requirements for the purpose of making certain that all components of the application have been received. The checklist can be broadened to include other information, such as a procedural history of the proposal so that its status can be easily determined. Appendix E is a sample checklist.

All the submission requirements listed below should be included in both the preliminary and final site development review phases. The few that should be in only the final phase are identified as such.

Legal data

1. Name and address of applicant and authorization of owner if different from applicant.
2. Name and address of owners(s) of record, if different from applicant.
3. Name and address of person or firm preparing the plan and map.
4. Ownership intentions, such as purchase options.
5. Current zoning classification of property, including exact zoning boundary if in more than one district.
6. Property boundary line plotted to scale. Distances, angles and area should be shown.
7. North arrow, scale and date.
8. Locations, widths, elevations and names of existing and proposed adjacent streets.
9. Property lines and names of owners of adjoining parcels.
10. Location, width and purpose of all existing and proposed easements, set-backs, reservations and areas dedicated to public use within and adjoining the property.
11. Description of all existing deed restrictions or covenants applying to the property.
12. Record of the application and approval status of all necessary state and county permits. (Final only.)

Another element, necessary to determine conformity with

the intent of the regulations, is the identification of any state or county permits required for execution of the project.

Impact of proposal on environs

1. Relationship to adjacent and nearby land uses, both public and private.
 2. Relationship to existing and proposed traffic patterns.
 3. Relationship to existing and projected water supply, sewage disposal and similar service capabilities.
 4. Relationship to the community's ability to provide adequate recreation, education, fire protection and similar facilities and services to its residents.
 5. Visual compatibility with surroundings.
 6. Effect on air and water quality standards applicable primarily to industrial site development plans.
 7. Effect on energy consumption and conservation.
- Draft Environmental Impact Statement (DEIS) and Environmental Impact Statement (EIS) will be required if the reviewing agency deems the proposal to be significant pursuant to the State Environmental Quality Review Act (SEQRA).

Natural features

1. Geologic features, such as depth to bedrock and the location of rock outcrops.
2. Topographic features, including a map showing existing contour intervals of no more than five feet. Two-foot contour intervals should be required if the topography is relatively flat. Areas of steep slopes should be delineated as necessary.
3. Vegetative cover, including existing wooded areas, significant isolated trees and similar features.
4. Soil characteristics, such as load bearing capacity and drainage capacity.
5. Hydrologic features should include drainage and runoff patterns, flood hazard areas, wetlands and depth to groundwater.

Existing development and infrastructure

1. Location and dimensions of major buildings and structures.
2. Location and width of roads and paths, including site access.
3. Location, size and flow direction of sewers, water supply lines and culverts. Major electric, gas and telephone lines and appurtenances should also be

shown.

4. Location of other existing development and uses, including parking and loading areas, fences, trees and landscaping.

Proposed development

1. Grading and drainage plan showing proposed topography at appropriate contour intervals. This information can be combined with the map of existing topography if it can be clearly depicted.
2. Location, proposed use and height of buildings and other structures, such as retaining walls, fences, outdoor storage tanks, air conditioning units and waste disposal units.
3. Location, proposed use, design and construction materials of improvements not requiring structures, such as parking, loading, and outdoor storage areas.
4. Location and arrangement of site access and egress, including all paths for pedestrian and vehicular travel within the site. Information should include profiles and cross-sections of roadways and sidewalks showing grades, widths and location and size of utility lines.
5. Location and size of water and sewer lines and appurtenances. Any means of water supply or sewage disposal other than extensions of existing systems should be described, including location, design and construction materials.
6. Location, design and construction materials of all energy distribution facilities, including electric, gas and solar energy.
7. Location, size and design of all outdoor lighting facilities and public address systems.
8. Location, size, design and construction materials of all outdoor signs.
9. General landscaping plan and planting schedule, including the treatment of buffer areas and the location and types of trees to be planted.
10. Estimated project construction schedule with possible phasing plan for large projects. (Final only).
11. Additional specifications for materials.
12. Performance bond, amount, completion schedule, public improvements covered, inspection and bond approval.

Review standards

The setting of criteria upon which the community can judge the merits of proposals submitted for review are

necessary to reduce the possibility of arbitrary decisions and to maintain good will between the developer and the community. The site development plan regulations should, therefore, include standards as the basis for judging the merits of all proposals sent to it for review and action. The criteria can be contained in either an exclusive site development plan article or in the general or supplemental use regulations of the zoning ordinance or local law.

The standards chosen for evaluating a proposal should be specific enough to assure compliance with the regulations, but be flexible enough to allow the reviewing agency and the developer some discretion in the ultimate design and construction of the project. All factors being reviewed should, therefore, be subject to evaluation by the use of either strict numerical standards or more discretionary performance standards.

The local comprehensive development plan, based on a land capabilities analysis and achievable goals and objectives, should be the basis for setting the numerical and performance standards. Certain elements of a site proposal, such as the amount of open space and the number of needed parking spaces, can be quantified, while others, such as architectural features and ecological disturbances, are most subjective. It should not be assumed, however, that the ability to set numerical standards means that it will be practical to use them in all cases.

The determination of the mix of numerical and the more flexible performance standards should be based in part on local desires, but it should also be a function of the technical review capability available to the community. For instance, a rural community lacking financial or professional resources to review the site development plan may need relatively detailed standards for use by the lay reviewing agency, while a municipality having qualified planning assistance available, could draft more flexible criteria. This assumes that discretionary judgments can be made more readily by trained personnel (whether local staff, county planning agency or consultant services) than by lay persons.

Development considerations

The purpose of the review process is to facilitate evaluation of a development proposal within the framework of a local government's goals. The previously described submission requirements present the basic

information needs and the review standards set the parameters for determining the adequacy of the proposal.

The task of specifying development considerations is complex. The factors to be reviewed and the relative weights given to them will vary from site to site. This is because no two parcels of land are exactly alike, and each proposed use introduces a different set of circumstances into the evaluation equation. The reviewing agency will, for example, give higher priority to analyzing the effects of commercial traffic, topography and noise for an industrial development proposal than it will for a residential one. Pedestrian safety, neighborhood facilities and services would be more important considerations in the latter case. Thus every proposed development will have to be judged by the reviewing agency on its own merits within the parameters of local aspirations.

The number of development factors to be evaluated can be large. Therefore, it is necessary to determine the important elements early in the process, such as at the presubmission conference. Then, upon submission, the community will be ready to undertake the task of evaluating the site development plan proposal.

To assist the responsible agency, Figure 4 presents an array of frequently encountered review considerations. Although not all of the factors will apply in all cases, the table should serve as a guide to help ensure equitable and realistic reviews.

It was previously noted that the factors to be evaluated by the reviewing agency will vary for different categories of proposed uses. Descriptions of development considerations for apartment/condominium developments and drive-in facilities have, therefore, been included in Appendix F as examples to highlight some of the differences between them. These descriptions should aid in introducing the reader to the mechanics of reviewing these types of proposals. They should also provide a guide for analyzing the costs and benefits of other use proposals.

Figure 4: Typical Development Considerations

Regional and local environs

Relationship to comprehensive plan
 Compatibility with surroundings
 Accessibility
 - pedestrian
 - automobile
 - trucking
 - public transportation
 Economic impact
 Fiscal impact
 Environmental impact
 - air, water, noise
 Facilities and services availability
 Visual compatibility
 Historic and archaeologic considerations

Natural features

Geology
 Topography
 Soil characteristics
 Vegetation
 Micro-climate
 Wildlife
 Open space
 Surface drainage
 Erosion
 Ground waters
 Wetlands
 Flood hazard areas

Circulation

Vehicular
 - ingress and egress
 - road layout
 - parking areas
 - loading areas
 - traffic control
 Pedestrian
 - walkways
 - safety

Design and aesthetics

Site Usage
 - density
 - geometrics
 Structures
 - relationship to site
 - plans
 - elevations
 -functional adequacy
 Architectural features
 Signs
 Landscaping
 Recreation areas
 Incidentals
 - fencing
 - buffer strips

Miscellaneous

Construction specifications
 Utilities
 Maintenance
 Staging of development

Appendix A

Town Law, section 274-a* (as revised effective July 26, 1994)

§274-a. Site plan review.

1. Definition of site plan. As used in this section the term "site plan" shall mean a rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in the applicable zoning ordinance or local law, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan. Plats showing lots, blocks or sites which are subject to review pursuant to authority provided for the review of subdivisions under section two hundred seventy-six of this article shall continue to be subject to such review and shall not be subject to review as site plans under this section.

2. Approval of site plans.

(a) The town board may, as part of a zoning ordinance or local law adopted pursuant to this article or other enabling law, authorize the planning board or such other administrative body that it shall so designate, to review and approve, approve with modifications or disapprove site plans prepared to specifications set forth in the ordinance or local law and/or in regulations of such authorized board. Site plans shall show the arrangement, layout and design of the proposed use of the land on said plan. The ordinance or local law shall specify the land uses that require site plan approval and the elements to be included on plans submitted for approval. The required site plan elements which are included in the zoning ordinance or local law may include, where appropriate, those related to parking, means of access, screening, signs, landscaping, architectural features, local and dimensions of buildings, adjacent land uses and physical features meant to protect adjacent land uses as well as any additional elements specified by the town board in such zoning ordinance or local law.

(b) When an authorization to approve site plans is granted by the town board pursuant to this section, the terms thereof may condition the issuance of a building permit upon such approval.

3. Application for area variance. Notwithstanding any provision of law to the contrary, where a proposed site plan contains one or more features which do not comply with the zoning regulations, application may be made to the zoning board of appeals for an area variance pursuant

to section two hundred sixty-seven-b of this article, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.

4. Conditions attached to the approval of site plans. The authorized board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the town.

5. Waiver of requirements. The town board may further empower the authorized board to, when reasonable, waive any requirements for the approval, approval with modifications or disapproval of site plans submitted for approval. Any such waiver, which shall be subject to appropriate conditions set forth in the ordinance or local law adopted pursuant to this section, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan.

6. Reservation of parkland on site plans containing residential units.

(a) Before such authorized board may approve a site plan containing residential units, such site plan shall also show, when required by such board, a park or parks suitably located for playground or other recreational purposes.

(b) Land for park, playground or other recreational purposes may not be required until the authorized board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the town based on projected population

*Substantively the same as Village Law, section 7-725-a, effective July 26, 1994, and General City Law, section 30-a, effective July 1, 1994.

growth to which the particular site plan will contribute.

(c) In the event the authorized board makes a finding pursuant to paragraph (b) of this subdivision that the

proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the authorized board may require a sum of money in lieu thereof to be established by the town board. In making such determination of suitability, the board shall assess the size and suitability of lands shown on the site plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the authorized board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the town exclusively for park, playground or other recreational purposes, including the acquisition of property.

(d) Notwithstanding the foregoing provisions of this subdivision, if the land included in a site plan under review is a portion of a subdivision plat which has been reviewed and approved pursuant to section two hundred seventy-six of this article, the authorized board shall credit the applicant for any land set aside or money donated in lieu thereof under such subdivision plat approval. In the event of resubdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.

7. Public hearing and decision on site plans. In the event a public hearing is required by ordinance or local law adopted by the town board, the authorized board shall conduct a public hearing within sixty-two days from the day an application is received on any matter referred to it under this section. The authorized board shall mail notice of said hearing to the applicant at least ten days before said hearing and shall give public notice of said hearing in a newspaper of general circulation in the town at least five days prior to the date thereof and shall make a decision on the application within sixty-two days after such hearing, or after the day the application is received if no hearing has been held. The time within which the authorized board must render its decision may be extended by mutual consent of the applicant and such board. The decision of the authorized board shall be filed in the office of the town clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant. Nothing herein shall preclude the holding of a public hearing on any matter on which a public hearing is not so required.

8. Notice to metropolitan, regional or county planning agency. At least ten days before such hearing, the authorized board shall mail notices thereof to the county, metropolitan or regional planning agency, as required by section two hundred thirty-nine-m of the general municipal law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in subdivision one of section two hundred thirty-nine-m of the general municipal law. In the event a public hearing is not required, the matter shall be referred to the metropolitan, county, or regional planning agency before final action is taken thereon, if required by section two hundred thirty-nine-m of the general municipal law.

9. Compliance with state environmental quality review act. The authorized board shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations.

10. Court review. Any person aggrieved by a decision of the authorized board or any officer, department, board or bureau of the town may apply to the supreme court for review by a proceeding under article seventy-eight of the civil practice law and rules. Such proceedings shall be instituted within thirty days after the filing of a decision by such board in the office of the town clerk. The court may take evidence or appoint a referee to take such evidence as it may direct, and report the same, with findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The court shall itself dispose of the matter on the merits, determining all questions which may be presented for determination.

11. Costs. Costs shall not be allowed against the authorized board unless it shall appear to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

12. Preference. All issues addressed by the court in any proceeding under this section shall have preference over all civil actions and proceedings.

Appendix B

Illustrative site development plan regulations

- integral with zoning local law or ordinance

Proposed site plan review and approval provisions. Amendment to “Ordinance of the year 1971 for zoning in the specified districts of the Town of Hanover,” Chautauqua County.

Section 16 Site Plan Review and Approval. Prior to the issuance of a zoning permit in the Business (B-1) District, the zoning officer shall require site plan approval by the planning board pursuant to this section. The zoning officer shall notify an applicant for a zoning permit where site plan approval is required of the provisions of this section.

16.1 Sketch plan. A sketch plan conference may be held between the planning board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the planning board of his proposal prior to the preparation of a detailed site plan; and for the planning board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant should provide the following:

(a) A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;

(b) A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features; and

(c) A topographic or contour map of adequate scale and detail to show site topography.

16.2 Application for site plan approval. An application for site plan approval shall be made in writing to the chairman of the planning board and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the

accompanying information shall be drawn from the following checklist as determined necessary by the planning board at said sketch plan conference.

(a) Site plan checklist.

1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
2. North arrow, scale and date;
3. Boundaries of the property plotted to scale;
4. Existing watercourses;
5. Grading and drainage plan, showing existing and proposed contours;
6. Location, design, type of construction, proposed use and exterior dimensions of all buildings;
7. Location, design and type of construction of all parking and truck loading areas, showing access and egress;
8. Provision for pedestrian access;
9. Location of outdoor storage, if any;
10. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
11. Description of the method of sewage disposal and location, design and construction materials of such facilities;
12. Description of the method of securing public water and location, design and construction materials of such facilities;
13. Location of fire and other emergency zones, including the location of fire hydrants;
14. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
15. Location, size and design and type of construction of all proposed signs;
16. Location and proposed development of all buffer areas, including existing vegetative cover;
17. Location and design of outdoor lighting facilities;
18. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
19. General landscaping plan and planting schedule;
20. An estimated project construction schedule.

21. Record of application for and approval status of all necessary permits from state and county officials.
22. Identification of any state or county permits required for the project's execution; and
23. Other elements integral to the proposed development as considered necessary by the planning board.

16.3 Review of site plan. The planning board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:

- (a) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- (b) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- (c) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- (d) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- (e) Adequacy of stormwater and drainage facilities.
- (f) Adequacy of water supply and sewage disposal facilities.
- (g) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- (h) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- (i) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

16.4 Planning board action on site plan. Within forty-five (45) days* of the receipt of an application for site plan approval, the planning board shall render a decision, file said decision with the town clerk, and mail such decision to the applicant with a copy to the zoning officer. The time within which a decision must be rendered may be extended by mutual consent of the applicant and planning board.

(a) Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the town, the planning board shall endorse its approval on a copy of the final site plan and shall forward a copy to the applicant, zoning officer, and file same with the town clerk.

(b) Upon disapproval of a site plan, the planning board shall so inform the zoning officer and the zoning officer shall deny a zoning permit to the applicant. The planning board shall also notify the applicant in writing of its decision and its reasons for disapproval. Such disapproval shall be filed with the town clerk.

16.5 Reimbursable costs. Costs incurred by the planning board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant, not to exceed \$_____.

16.6 Performance guarantee. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the town board after consultations with the planning board, zoning officer, town attorney and other appropriate parties.

16.7 Inspection of improvements. The zoning officer shall be responsible for the overall inspection of site improvements including coordination with the planning board and other officials and agencies, as appropriate.

16.8 Integration of procedures. Whenever the particular circumstances of proposed development require compliance with either the special use procedure in this zoning ordinance or other requirements of the town, the planning board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.

*Now superseded by 62-day requirement of NYS Town Law, §274-a

Appendix C

Illustrative site development plan regulations - separate local law

Town of Geneseo - Site Plan Review Law

Article I

Introductory Provisions

Section 1.010 Enactment. The Town Board of the Town of Geneseo, Livingston County, New York, does hereby ordain and enact the Town of Geneseo Site Plan Review Law pursuant to the authority and provisions of section 10 of the Municipal Home Rule Law and section 274-a of the Town Law.

1.020 Short title. This local law shall be known as the “Town of Geneseo Site Plan Review Law.” The Town of Geneseo is hereinafter referred to as the “town.”

1.030 Intent and purpose. Through site plan review, it is the intent of this local law to promote the health, safety and general welfare of the town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the town and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants.

It is further the intent of this local law to ensure that optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the town, by regulating land use activity within the town through review and approval of site plans. It is not the intent of this local law to prohibit per se any land use activity but to allow all land use activities which will meet the standards set forth in this local law.

1.040 Authorization of Planning Board to review site plans. The Planning Board is hereby authorized to review and approve or disapprove site plans for land uses within the town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this local law.

Article II

Applicability and definitions

Section 2.010 Applicability of review requirements. All new land use activities within the town shall require site plan review and approval before being undertaken, except the following:

1. Construction of one- or two-family dwelling and ordinary accessory structures, and related land use activities.
2. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this local law.
3. Ordinary repair or maintenance or interior alterations to existing structures or uses.
4. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%; and having a cost value of less than \$5,000.
5. Nonstructural agricultural or gardening uses not involving substantial timber cutting.
6. Signs under 10 square feet.
7. The sale of agricultural produce and temporary structures related to sale of agricultural produce.
8. Garage, lawn and porch sales not exceeding three days. If such sales take place more often than three (3) times in any calendar year, site plan approval will be required.

Any person uncertain of the applicability of this local law to a given land use activity may apply in writing to the planning board for a written jurisdictional determination.

2.020 Effect on existing uses. This law does not apply to uses and structures which are lawfully in existence as of the date this local law becomes effective. Any use which would otherwise be subject to this law, that has been discontinued for a period of two years or more shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed and completed within one year from the effective date of this local law.

2.030 Relationship of this law to other laws and regulations. This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive shall apply.

2.040 Definitions.

“Family” means a person or persons related to each other

by blood, marriage or adoption, or any number of persons, irrespective of any such relationship, which nonetheless functions as the equivalent of such a family, living together as a single housekeeping unit.

“Land use activity” means any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. “Land use activity” shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

“One family dwelling” means a complete self-contained residential unit for permanent habitation by one family only, and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

“Shoreline” means the mean high water mark of any lake, pond, river, or permanent stream.

“Structure” means any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, tanks, and any fixtures, additions and alterations thereto.

“Structure, accessory” means any structure designed to accommodate an accessory use but detached from the principal structure, such as, a free standing garage for vehicles accessory to the principal use, a storage shed, garden house or similar facility.

“Two family dwelling” means two complete, but separate, self-contained residential units each intended for permanent habitation by one family only in a single structure having a common wall roof, wall or ceiling and containing separate rooms and facilities for living including cooking, sleeping, and sanitary needs.

Any term used in this local law which is not defined hereinabove shall carry its customary meaning unless the context otherwise dictates.

Article III

Site plan review

Section 3.010 Procedures - Generally. Prior to undertaking any new land use activity except for a one- or two-family dwelling and other uses specifically excepted in section 2.010 of this local law, a site plan approval by the planning board is required. Applicants for site plan

approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this local law.

3.020 Sketch plan. A sketch plan conference shall be held between the planning board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the planning board of his proposal prior to the preparation of a detailed site plan; and for the planning board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:

1. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
2. An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel; and
3. A topographic or contour map of adequate scale and detail to show site topography.

3.030 Application requirements. An application for site plan approval shall be made in writing to the chairman of the planning board and shall be accompanied by information contained on the following checklist. Where the sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the planning board at said sketch plan conference.

Site plan checklist:

1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
2. North arrow, scale and date;
3. Boundaries of the property plotted to scale;
4. Existing buildings;
5. Grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bedrock,

- soil characteristics, and watercourses;
- 6. Location, design, type of construction, proposed use and exterior dimensions of all buildings;
- 7. Location, design and type of construction of all parking and truck loading areas, showing access and egress;
- 8. Provision for pedestrian access;
- 9. Location of outdoor storage, if any;
- 10. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
- 11. Description of the method of sewage disposal and location, design and construction materials of such facilities;
- 12. Description of the method of securing public water and location, design and construction materials of such facilities;
- 13. Location of fire and other emergency zones, including the location of fire hydrants;
- 14. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- 15. Location, size and design and type of construction of all proposed signs;
- 16. Location and proposed development of all buffer areas, including existing vegetative cover;
- 17. Location and design of outdoor lighting facilities;
- 18. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
- 19. General landscaping plan and planting schedule;
- 20. An estimated project construction schedule;
- 21. Record of application for and status of all necessary permits from other governmental bodies;
- 22. Identification of any permits from other governmental bodies required for the project's execution; and
- 23. Other elements integral to the proposed development as may be considered necessary in the particular case by the planning board.

3.040 Required fee. An application for site plan review shall be accompanied by a fee of \$_____.

3.050 Reimbursable costs. Cost incurred by the planning board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant, not to exceed \$_____.

Article IV Review standards

Section 4.010 General standards and considerations.

The planning board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:

- 1. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- 2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- 3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
- 4. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- 5. Adequacy of stormwater and drainage facilities.
- 6. Adequacy of water supply and sewage disposal facilities.
- 7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- 8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- 9. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- 10. Overall impact on the neighborhood including compatibility of design consideration.

4.020 Specific standards and considerations. The following specific standards shall apply in conjunction with the subject uses or in the designated areas.

4.021 Shoreline standards and considerations.

- 1. All construction on any shoreline lot shall be carried out in such manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of ground and surface water into the waterway, to remove only that vegetation which is necessary to the accomplishment of the project, and to generally maintain the existing aesthetic and ecological character of the shoreline.
- 2. No on-site sewage tile field or seepage pit shall be located within one hundred (100) feet of any shoreline and no septic or other holding tank shall be located within fifty (50) feet of any shoreline, as measured from the normal high water mark of the

waterbody.

3. Any boat pump-out or other connection to provide for the accommodation of sanitary wastes shall be connected to an adequate disposal system.
4. Any marina, boat service facility or any storage of petroleum products within one hundred (100) feet or reasonable setback as determined necessary by the planning board, of the shoreline shall include adequate provisions for insuring that any leak, rupture or spill will be contained and not be introduced into or affect the adjacent waterway. In particular, a raised earthen or paved berm or dyke shall be constructed in such manner so as to afford adequate protection.
5. Any paved or otherwise improved parking, loading or service area within one hundred (100) feet of any shoreline shall be designed and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or earthen siltation into the waterway.

Article V

Public hearing and planning board decision

Section 5.010 Public hearing. The planning board may conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be held within 62 days of the receipt of application for site plan review and shall be advertised in the town's official newspaper, or if there is none, in a newspaper of general circulation in the town at least five (5) days before the public hearing.

5.020 Planning board decision. Within 62 days of receipt of the application for site plan approval or if a public hearing is held within 62 days of public hearing, the planning board shall render a decision. In its decision the planning board may approve, approve with modifications or disapprove the site plan. The time period in which the planning board must render its decision can be extended by mutual consent of the applicant and the planning board.

1. Approval. Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the town, the planning board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
2. Approval with modifications. The planning board may conditionally approve the final site plan. A

copy of written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the planning board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the town, the planning board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the town clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

3. Disapproval. Upon disapproval of the site plan the decision of the planning board shall immediately be filed with the town clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the planning board's reasons for disapproval.

Article VI

Appeal of planning board decision

Section 6.010 Appeal procedure. Any person aggrieved by any decision of the planning board or any officer, department, board or bureau of the town, may apply to the supreme court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the town clerk.

Article VII

Miscellaneous provisions

Section 7.010 Enforcement officer. The town board may appoint an enforcement officer to carry out the duties assigned by this local law or by any additional regulations adopted pursuant to section 7.020 hereof. If appointed, the enforcement officer shall be responsible for the overall inspection of site improvements including coordination with the planning board and other officials and agencies, as appropriate.

7.020 Further regulations by planning board. The planning board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this local law.

7.030 Amendments.

1. The town board may on its own motion, on petition, or on recommendation of the planning board, after public notice and hearing, amend this local law

pursuant to all applicable requirements of law.

2. All proposed amendments originating by petition, or by motion of the town board, shall be referred to the planning board for a report and recommendation thereon. The planning board shall submit its report within thirty (30) days after receiving such referral. Failure of the planning board to report within the required time shall be deemed to constitute a recommendation for approval of the proposed amendment.

7.040 Integration of procedures. Whenever the circumstances of proposed development require compliance with this Site Plan Review Law and with any other local law, ordinance or requirement of the town, the planning board shall attempt to integrate, as appropriate, site plan review as required by this local law with the procedural and submission requirements for such other compliance.

7.050 Enforcement. Any person, corporation, partnership, association of other legal entity who shall violate any of the provisions of this local law, or any conditions imposed by a permit pursuant hereto shall be guilty of an offense and subject to a fine of not more than two hundred fifty dollars (\$250) or by penalty of two hundred fifty dollars (\$250) to be recovered by the town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

7.060 Severability. The provisions of this local law are severable. If any article, section, paragraph or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this local law shall remain valid and effective.

Appendix D

Sample Application for Site Development Plan Approval

Preliminary G Date: _____ **Final G** Date: _____
(Check appropriate box)

Name of proposed development _____

Applicant:

Name _____

Address _____

Telephone _____

Plans Prepared by:

Name _____

Address _____

Telephone _____

Owner (if different):

Name _____

Address _____

Telephone _____

(If more than one owner, provide information for each)

Ownership intentions, i.e., purchase options _____

Location of site _____

Tax map description _____

Section _____ Block _____ Lot _____

Current zoning classification _____

State and federal permits needed (list type and appropriate department) _____

Proposed use(s) of site _____

Total site area (square feet or acres) _____

Anticipated construction time _____

Will development be staged? _____

Current land use of site (agriculture, commercial, undeveloped, etc.) _____

Current condition of site (buildings, brush, etc.) _____

Character of surrounding lands (suburban, agriculture, wetlands, etc.) _____

Estimated cost of proposed improvement \$ _____

Anticipated increase in number of residents, shoppers, employees, etc. (as applicable) _____

Describe proposed use, including primary and secondary uses; ground floor area; height; and number of stories for each

building:

- for residential buildings include number of dwelling units by size (efficiency, one-bedroom, two-bedroom, three- or more bedrooms) and number of parking spaces to be provided.
- for non-residential buildings, include total floor area and total sales area; number of automobile and truck parking spaces.
- other proposal structures.

(Use separate sheet if needed)

Appendix E

Sample Site Development Plan Review Checklist

Proposed Development:

Name _____

Procedural Sequence:

Initial contact with enforcement officer

Presubmission conference

Preliminary application

Fee paid: Amount \$ _____

Public hearing notice

Public hearing

Tentative action:

Approval _____

Approval with modifications

Disapproval _____

Resubmitted _____

Lapse date for final approval

Final application

Referral

Comments returned

Final Action:

Approval _____

Approval with modifications

Conditions satisfied

Disapproval _____

Resubmitted _____

Building permit granted

Performance bond required

Amount \$ _____

Period _____

Improvements covered _____

Performance bond satisfied

Certificate of occupancy issued

Applicant:

Name _____
Address _____

Telephone _____

Date: _____

Sample Site Development Plan Review Checklist (cont'd)

Technical Considerations	<u>Item Satisfied</u>
North arrow, scale, date	_____
Property boundary, dimensions & angles	_____
Easements and deed restrictions	_____
Names, locations and widths of adjacent streets	_____
Land use, zoning, ownership and physical improvement of adjacent properties	_____
Conformity with comprehensive plan	_____
Impact on environs:	
Land use	_____
Transportation	_____
Community facilities and services	_____
Aesthetics	_____
Environmental, i.e., air, water, noise, etc.	_____
Energy conservation	_____
Historic preservation	_____
Environmental impact statement	_____
Existing, on-site physical improvements	_____
Existing natural features:	
Geologic features	_____
Soil characteristics	_____
Topography	_____
Vegetation	_____
Hydrologic features	_____
Proposed developments:	
Grading and drainage plan	_____
Buildings and other structures	_____
Improvements such as parking, storage and recreation areas	_____
Vehicular and pedestrian ways including ingress and egress	_____
Utility lines and appurtenances	_____
Outdoor lighting and public address systems	_____
Outdoor signs	_____
Landscaping plans	_____
Architectural plans	_____
Materials specifications	_____
Construction schedule	_____

Appendix F

Sample design review methodology*

Apartments and Condominiums

Introduction. Density is a key factor in shaping the character or psychology of a community; a relatively high village density does not guarantee a “problem” village, as low density does not guarantee a desirable village. However, apartments and condominiums, because of their density, generate a greater impact on surrounding areas than one- or two-family house subdivisions.

Land use. The development should be harmonious with the areas around it, functional and aesthetically pleasing. The components of the site should complement each other. The design should provide the residents of the development with both privacy and individuality. The impact of apartments on the local tax base has been a subject of controversy for several years. Studies prepared by Nassau County and the Town of Clay in New York show that apartments generally pay their share of the cost of education. Studies for other areas, such as the State of New Jersey; Connecticut; Montgomery County, Pennsylvania; and Fairfax County, Virginia, have had similar results.

The need for recreational facilities in apartment/condominium complexes is often overlooked. It is very important that children have some play area. Care could be taken so that children’s needs for movement should not conflict with adult needs for privacy. Trees selected for the play area should be ones which can be used for climbing. Site furniture should be provided with children’s needs in mind. Play equipment should be selected with the children’s preferences in mind. The greater the variety of equipment in an area, the greater the use that area will have.

Active recreation standards:

- .5 acres/1,000 people (children’s play area)
- 1.5 acres/1,000 people (field play for younger children)
- 1.5 acres/1,000 people (older children, adults) (tennis, basketball courts)
- 1 pool/1,000 people (swimming)
- 9 hole 60 acres (min.) 80 acres (max.)
- 18 hole 120 acres (min.) 160 acres (max.)

The most popular sports in condominiums are tennis and swimming.

Site analysis. A careful site analysis has a great deal to do with the final land use of the site. Soil composition and bearing, as well as slope, will dictate the type of development which is practical.

One of the most valuable characteristics of some sites is the view: it should be developed to its greatest potential.

Preservation of existing vegetation helps keep the character of a site and helps to arrest erosion. There is no question that trees and shrubs enhance the livability of housing areas.

The amount of grading on the site should be kept to a minimum. The less the soil is disturbed, the greater the survival of existing plant materials and the less chance of erosion.

It is important to preserve any water features which contribute to the beauty of a site’s layout. A planning board and developer should be able to maximize the use of water and other natural features without undue restriction of the property.

The solutions can usually be achieved through careful design.

Certain man-made features such as stone walls, fences, roads, etc., can be used to enhance a development and should follow ridges and vales rather than straddle hills perpendicular to contours. Areas with poor drainage should be avoided because they necessitate more bridges, culverts and other drainage works.

Transportation. Traffic in and out of a multi-family housing development must be studied to determine its impact on surrounding areas. Pedestrian-vehicular circulation within the development should also be studied. Wherever possible, the crossing of the pedestrian and vehicular traffic should be prevented.

*Adapted from *Design Review Manual*, Syracuse/Onondaga County Planning Agency, 1975
Streets should be logically related to the topography and coordinated into a system in which each street performs its intended function.

The function that a street is intended to serve will determine both its right-of-way and its pavement width. The fact that collector streets and major streets carry considerably higher amounts of traffic than minor residential streets must be reflected in the criteria used for determining the street cross-section. Other considerations affecting the width of street right-of-way are sidewalks, planting strips and utilities, including street lights and fire hydrants.

On-Site Circulation. When residential development occurs along major streets, special consideration must be given to its design. The use of a buffer strip and a marginal access street helps to alleviate traffic noise and creates a private environment. It also increases safety by greatly reducing the points of access to the major street. All entries and exits to the development should be located away from traffic problem areas. Depending on the size of the development, a traffic light may be needed.

Intersections are another important element in street planning and design. It is very important for streets to intersect at right angles rather than acute angles. The center lines of offset street intersections should be no closer than 125 feet, and in some areas they are required by law to be even farther apart. Improperly designed street intersections become potential traffic hazards.

Common pedestrian walks should be used to move people within the development so as to avoid contact with vehicles.

Provision should be made for bicycling, avoiding conflicts with pedestrians and motorized traffic.

Structures. Structures within a development should complement the site (i.e., if the site has an attractive view, the structure should be designed to take advantage of that view). Signs should be uniform and unobtrusive. Building lines should not be too linear. Wherever possible, building units should be staggered; this helps to define individual spaces and breaks up monotonous building lines.

Provision of services should be considered. Wherever possible, dumpsters should be screened or enclosed.

If buildings are arranged in groups, emergency vehicles should have access to all units.

Site work. Plants used in landscaping should be indigenous to enhance their chances of survival. Street

trees should be used along vehicular routes; they will aid in pollution control and delineate the road as a space apart from the dwelling units. A great variety of plants may not always be desirable. A planting design may become confused from excessive variety. A few types of plants used properly can provide attractive landscaping. Parking areas should be screened.

Grading and drainage paths should be studied carefully to prevent ponding areas within the development. Earthwork such as berms can and should be used to screen undesirable views and to direct pedestrian traffic on the site.

All construction details should be in harmony with the building units. Utility service boxes should be conveniently located.

Drive-in facilities

Introduction. The drive-in facility, as well as the gasoline service station, is a product of the automobile age. Practically unknown prior to World War II, except for the occasional roadside diner, "drive-ins" now comprise practically every type of commercial use which can be serviced from a highway, ranging from dairy or limited grocery retail stores, to banks and fast-food restaurants. Although the design specifics for each use will vary according to function, there are certain general observations which can be made about all of these uses.

Land use. Due to intense competition between development types (e.g., fast-food, banks, etc.) for sites which maximize ease of access for the public, the drive-in facility has led to a proliferation of "strip" commercial development along principal highway routes. This, in turn, has led to increased traffic congestion on these routes and visual confusion and clutter.

The basic problems of the strip commercial development are:

- 1) individual uses with separate entry and exit drives cause excessive turns (left hand turning movements are particularly difficult);
- 2) entry and exit drives are often ill-defined and may not meet applicable state and local standards;
- 3) traffic flow between adjoining uses is rarely available, forcing cars back on to the highway;

4) individual uses may be poorly designed and the competition for attention has produced further visual disorder through a host of signs and symbols designed to attract the eye;

5) landscape screening, curbing and other devices which might bring some order are usually minimal or nonexistent;

6) zoning technique requiring special permits or other means of regulating uses are generally not comprehensive enough to provide adequate controls for the series of uses which comprise a “strip”;

7) special permit procedures and other controls usually regulate only certain types of drive-in uses (for example, fast-food restaurants may require a special permit, whereas banks may not) and such controls rarely, if ever regulate proximity of uses and the consequent potential for increased traffic.

The problems discussed above do not include all the problems caused by “strip” commercial developments. They are, however, typical of the problem faced by the average suburban or semi-suburban community. What, then, can the community do to provide some way of ordering and controlling drive-in facilities? First, it should be noted that the automobile technology which produced the “strip” is not likely to change so drastically that such commercial development will suddenly disappear (although the current energy situation could cause some reduction in the rate of such growth). Nor is it practicable to attempt to “legislate away” the strip. The most realistic approach (and one that many communities have already undertaken) is the development of more comprehensive standards for such growth. These standards can take several forms, which include arterial or highway service districts, planned or cluster development controls and marginal or service road system.

Arterial or highway service districts - These are special districts for the regulation of strip commercial development established through zoning. They could be established along adjoining principal highway arteries to regulate use type, geometrics (setback, site coverage), treatment (landscaping and signs), circulation (ingress, egress, internal flow and parking) and proximity between uses. In addition, these districts would provide for defined buffer areas between commercial uses and other uses such as residences. They would be similar to existing special permit procedures, but would view uses in the aggregate rather than singly.

Planned or cluster development controls - These would provide that a combination of drive-in facilities (three or more) would have to be located in a specified area with common access before any one use could be developed. This would, in effect, provide for the clustering of drive-in facilities with controlled access. A variation would be to permit drive-in facilities in shopping centers where they could share vehicular access with the center and thus limit additional curb cuts for single uses (the drive-in facility would be a controlled “satellite” use within the center)

Marginal or service road system - The marginal service road system would be located within the arterial control district and would require all drive-in uses to have access only on to this road. The marginal service road would run approximately parallel to the main arterial highway and controlled access points would connect the two at specified intervals, or in concert with existing highway intersections or access points for major shopping centers. The marginal road system could also serve residential and institutional areas on the same basis.

Site analysis. The location of drive-in facilities will generally be dictated by access to a highway service corridor, demand for services and market potential. Community planners should recognize these factors and respond to them by developing controls (see above) for regulating such uses. In analyzing the suitability of sites for their uses as drive-in facilities the following physical site conditions should be considered.

Soils - For small site areas the problems associated with soil composition should not be an insurmountable barrier. However, soils which exhibit extremely poor drainage, severity of slope or instability may prove economically infeasible for such development. Extensive regrading of small sites should be avoided. Where such regrading is done, provision should be made for the use of retaining walls, drainage ways and other devices which will insure protection of adjoining sites.

Drainage - Drive-in facilities will invariably require relatively large paved areas to accommodate moving vehicles and parking. Proposals which completely pave site areas should not be acceptable. If possible, the design should be compatible with a total drainage system for the site and its surrounding area.

Vegetation - Where possible, existing vegetation should be retained and incorporated into the landscaping plan for the facility. This is particularly true if large trees or other significant plants can be salvaged.

Air quality - Although this may appear to be a minor concern for a small site, state and federal regulations concerning air quality where a series of facilities will concentrate cars, should be reviewed prior to final approval.

View - Although site design and view will generally be determined by the location of the site in relation to an existing highway, the potential visual impact of the facility in relation to surrounding uses should be given careful consideration.

Transportation. In planning drive-in facilities the movement of vehicular traffic is a major consideration. Because drive-in facilities are traffic generators, their effect upon an existing highway system is especially critical. The following elements should be considered in analyzing these effects.

Existing system - The ability of existing roadways to absorb increased traffic flow, the creation of numerous turning movements into individual sites and the need for controls (i.e., signals, access points, etc.) should be given careful consideration. If necessary, controls should be implemented which would create clustering of drive-in facilities or the development of marginal service roads for an entire area (see *Land Use*).

Relation to other facilities - Even if it is not feasible to create a marginal road system or clustering of sites, the relation between several drive-in facilities should be given careful consideration. Curb cuts which are located too close together or which produce conflicts through alignment of the highway should be eliminated. The possibility of providing joint means of access or interconnecting sites should be examined as an alternative.

Traffic movement - Wherever possible, curb cuts for drive-in facilities should be coordinated with existing traffic signals, turning lanes and intersections. Minimum distances should be established between the new facility and access points on adjoining uses and intersections.

Pedestrian access - Pedestrian access to drive-in facilities will undoubtedly be limited. However, this does not mean that it should not be considered, particularly in shopping centers where the facility functions as a "satellite" to the main center area. Pedestrian walks should be provided to accommodate pedestrians entering from shopping center areas and from the street wherever practicable.

On-site circulation. Internal circulation of both vehicles

and pedestrians should be carefully reviewed. Points of conflict should be minimized and well-defined pedestrian paths should be provided. This is especially true in most drive-in facilities where customers will park their cars and walk into the structure for the particular product or service desired. The following elements should be considered.

Ingress and Egress - Minimum and maximum driveway widths should be established (12 foot minimum, for example) and curb cuts should be located at minimum distances from property lines. Traffic into and out of the site should be organized into a well-defined system in order to avoid conflict between vehicles entering and leaving the site.

Entry signs - Entry and exit signs should be easily seen, uniform and in keeping with other graphic treatments. Visual conflicts with existing signs should be avoided. It would be useful for surveys to include locations of all official highway signs on adjoining right-of-ways and other signs immediately adjoining the site. Photographs of the site are extremely useful in this regard. Flashing or moving signs are confusing and unnecessary.

Signals - It is unnecessary and dangerous to have a traffic signal at each facility. However, lack of coordination with existing signals is just as dangerous. If it is practical to align entry and exit drives with existing signals this should be done. Again the use of clustering or marginal roads should be considered.

Vehicular circulation - Traffic flow from entries to parking areas to exits should be well defined. Parking spaces which require "backing" directly in front of either entry or exit drives should be avoided. There should be a one-way traffic system if there are two curb cuts or a loop system with a median strip separating entry and exit if there is one curb cut.

Parking/service - Parking spaces should be a minimum of one car length from property lines (greater depth is desirable) in order to allow entering vehicles to pull in from the road. There should be sufficient space to stack cars waiting to exit from the site. Recommended minimum standards for various drive-in facilities are as follows:

Drive-in banks - one space per 300 sq. ft. GFA, plus 5 stacking spaces per drive-in teller bay and two existing spaces;

Shopping and convenience goods, personal service and

repair - one space per 200 sq. ft. GFA;

Drive-in restaurants - one space per four seats;

Bowling alleys - four spaces per alley.*

Service areas should be well defined and, where practicable, screened from parking areas. Their size and configuration will vary dependent upon the use of the facility.

Pedestrian Circulation - As previously noted, some access should be provided, if practical, for pedestrians entering from the street or from shopping areas (if the facility is located within a shopping center). This should be subject to individual site conditions. Internal pedestrian circulation (from vehicle to structure or other service area) should be well defined by raised walks and paving materials. Outdoor sitting areas and other amenities for the pedestrian should be considered. The use of different paving materials will not only define pedestrian areas but will also provide visual relief.

Structures. The design of structures for drive-in facilities will vary greatly. Banks may use individual designs for each branch location. The majority of fast-food restaurants have adopted prototype designs for their facilities (including graphics packages). Structures should be functional and should not be too large for the site area.

*Eno Foundation For Transportation, Zoning, Parking and Traffic, 1972.

Uniform setbacks and other geometric controls should be observed. In general, the following elements should be considered.

Relationship to site - The relation of structures to the site will be dictated largely by circulation needs. Structures should also respond to basic land forms and should be in harmony with adjoining sites, landscape treatment and functional use.

Plans - Again, plans will vary greatly depending upon the use of the structure. Prototype designs are common for such facilities, but they should not be considered as totally static. If modifications are warranted, they should be suggested prior to final site approval. A good plan will respond to the needs of both the owner/operator and the user.

Elevations - The use of exterior materials should not

require a detailed review. Facilities which are to be located in shopping centers should be in keeping with such centers and should blend with them. The use of garish materials or colors simply to attract attention should not be permitted. Drive-in facilities will employ a number of design motifs to market their product or service. These motifs should be complementary to the community and surrounding land uses.

Codes - Structures should conform to all applicable building and fire codes.

Signs - Signs are, perhaps, the single most important element in any drive-in facility both from a marketing and a community standpoint. Developers will frequently insist on the largest sign or the strongest symbol to identify their product or service. Denying them such signs, they contend, will impose a severe economic hardship.

Although there may be intense competition between such commercial developments, that is no excuse to do away with fair and uniform sign standards. Attractive graphics can enhance both individual sites and the appearance of entire areas and still identify function. Signs for individual sites should be uniform in their treatment. Colors, style of lettering, lighting and sign sizes should complement one another. Where temporary advertising (changing) signs will be used, their location, mounting details, sizes, lighting, lettering and color ranges should be permanently established prior to final site approval. This is often overlooked with the result that a wide variety of temporary signs of differing style, color and size appears without any positive relation to one another. Too large signs, or too tall mounts, flashing or moving signs should not be permitted.

Site work. Proper site detailing will enhance its use and the appearance of the community. It will also decrease maintenance costs for both the site owner and the community.

Construction details - Curbs should be of good quality and located so as to provide for separation of pedestrian and vehicular movement. Proper curbing will also provide for adequate surface drainage. Walks and other paved areas should have proper base courses to insure stability and prevent deterioration. Cracked paving, chipped curbs, potholes and the like should be repaired on a regular basis in order to maintain the usability and appearance of the facility. Catch basins and other drainage ways should be located to provide sufficient surface drainage without interfering with smooth pedestrian and vehicular

movement. Fencing for screening purposes should be of stockade or similar type.

Landscaping - The use of plants, earth berms and varying textures in paving materials will improve the appearance of the site, aid in defining pedestrian areas and provide screening from surrounding uses. Minimum standards should be established for amount, treatment and type of plants to be used. Beware of landscaping plans which show trees with 30 foot spreads, where none exist now or notations which read "landscaping to be provided by others." The municipality should insist on adequate landscape treatment for drive-in facilities. Provisions that insure adequate maintenance of landscaping and removal of dead or diseased plants should also be considered.

Utilities - Provision for all utilities to service the site should be indicated prior to final approval.

Maintenance - Provisions should be made for adequate maintenance of the site (including re-use or demolition of abandoned drive-in facilities). Trash receptacles should be properly screened from public view. Service areas should be kept clean and areas should be provided for snow removal and storage.

James A. Coon

The James A. Coon Local Government Technical Series is dedicated to the memory of the deputy counsel at the NYS Department of State. Jim Coon devoted his career to assisting localities in their planning and zoning, and helping shape state municipal law statutes.

His outstanding dedication to public service was demonstrated by his work and his writings, including a book entitled *All You Ever Wanted to Know About Zoning*. He also taught land use law at Albany Law School. His contributions in the area of municipal law were invaluable and as a result improved the quality of life of New Yorkers and their communities.

For further information, contact the DOS Division of Local Government at (518) 473-3355.

The following was excerpted from Administering Township Zoning: A Basic Guide for Citizens and Local Officials, 2nd edition, MSU Extension 1990.

Appendix III CHECKLIST FOR SITE PLAN REVIEW

Following is a checklist of the information commonly required to be submitted and evaluated in order to insure conformance with ordinance requirements and state and federal statutes. This checklist is generic, meaning it has been developed based on commonly required information and ordinance requirements. If your community does not have a checklist to help insure that site plan review is properly performed, one should be prepared. This list may be helpful in doing so. Do not attempt to use this list as is, without first insuring that each element is related to a requirement or standard already in your zoning ordinance. Communities have no authority to require information or conformance with standards that are not included in the zoning ordinance. If there are elements of this checklist that you feel should be a standard part of the procedures followed in your community, then be sure to first amend your zoning ordinance to properly include the necessary standards that could serve as a basis for this checklist. No representation is made that every appropriate agency or permit requirement of every local, state and federal agency is referenced herein.

Typically, zoning/planning staff will prepare a report as to the degree of conformance or nonconformance of a proposed site plan with ordinance requirements after checking the following basic considerations, if the site plan meets all ordinance requirements then it would be approved, if it could be modified to meet them, it would be approved with conditions, if it did not and could not meet them, then it would be denied. An outline of a typical staff report is on the last page of this Appendix.

SITE PLAN REVIEW CHECKLIST

Date of application: _____

Type of request: _____

Applicant: _____

Location of Property: _____

Zoning District: _____

Date of Hearing: _____

BASIC INFORMATION & DETERMINATIONS

- ☐ Whether the required number of copies of the information has been submitted, and whether required fees are paid.
- ☐ Whether the necessary information on ownership has been submitted. Whether the proposed use is consistent with the existing zoning classification of the parcel and whether any other required approvals (e.g. special land use or nonconforming use expansion authorization) have already been obtained or are pending (specifically identify)
- ☐ Whether any necessary public hearings with proper notice have been scheduled or held. ___Whether any variances may be necessary. (Specifically identify on attached sheet).
- ☐ Whether the site requires any special reviews because it is in a location subject to special regulations such as the following:
 - ☐ designated high risk of erosion area
 - ☐ designated natural river
 - ☐ designated environmental area
 - ☐ designated sand dune area
 - ☐ designated historic district
 - ☐ designated or known groundwater recharge area
 - ☐ designated wetland
 - ☐ adjoining an inland lake or stream
 - ☐ identified hazardous waste area
 - ☐ known site for disposal of solid waste
 - ☐ whether the land is subject to a farmland or open space agreement.
 - ☐ others, specify:
- ☐ Whether any special studies will be necessary, such as environmental impact assessments, traffic studies, fiscal impact studies, or engineering reviews. (Attach sheet with list).
- ☐ Which other local, county, state and federal agencies need to be contacted for review and comment and whether any other special permits have to be obtained from them such as wastewater or air discharge permits (attach sheet with list). Possibilities include:
 - ☐ wastewater discharge permits from the DNR
 - ☐ Pollution Incident Prevention Plans from the DNR
 - ☐ hazardous waste storage, treatment or disposal, several permits from the DNR d. air pollution control permits for air discharges of Industrial processes or burning of solid or hazardous wastes, from the DNR
 - ☐ dredging within 500 feet of a river, stream, creek, ditch, wetland or floodplain. permit from the DNR
 - ☐ dredging, filling or construction in a waterbody, permit from the DNR
 - ☐ others, specify:
- ☐ Whether any oversizing of public utilities is necessary to serve adjacent properties. Whether additional road rights of way, outlets, utility easements, etc., are necessary to serve adjacent properties in the future.
- ☐ Identification of the sections of the ordinance with applicable standards. (Attach sheet with list.)

IS ALL REQUIRED INFORMATION DEPICTED AND ARE ALL SPECIFIC STANDARDS MET?

Basic Facts

- ☐ North arrow, scale, date, name of project, and who prepared the drawing depicted?
- ☐ Accuracy of property description(s), location and length of property lines, streets, lakes, and other physical features in or adjoining the project.
- ☐ Accuracy of dimensions of existing and proposed buildings, accessory structures (including length of buildings, height, if of stories, elevations)
- ☐ Whether the area of proposed buildings, the lot and impervious surfaces is within ordinance allowances.
- ☐ Whether the proposed site design meets ordinance setbacks, yard dimensions, lot coverage, square footage, floor area ratio and related standards.
- ☐ Whether the number and size of proposed lots is correct.

Risks of Natural Hazards

- ❑ Whether any risks of natural hazards from flooding, high risk of erosion, slumping of steep slopes or sandy soils, subsidence or other natural event has been adequately considered.

Drainage and Watercourses

- ❑ Whether proposed grades, drainage and stormwater retention/detention is adequate and whether any required fencing thereof is indicated and of proper materials and sizes. Whether required sediment control plans are adequate.
- ❑ Whether proposed locations of structures and uses relative to wetlands, water recharge areas and floodplain are adequate.
- ❑ Whether proposed bulkheads, docks, fill or other structures in or adjacent to a watercourse meet local, state, and federal requirements.

Drinking Water and Wastewater

- ❑ Whether water and sanitary sewer services including hydrants, clean-outs and shutoff valves (or well and septic) are properly depicted and conform with engineering specifications.

Other Utilities

- ❑ Whether the location of other utilities for electric, natural gas, telephone, steam or cable TV on the site are appropriate.
- ❑ Where any major natural gas or electric lines cross the property.

Access and Circulation

- ❑ Whether the location, dimensions, direction of travel, and construction specifications for streets, alleys, driveways, dividers, curbs, gutters and other permanent improvements are depicted.
- ❑ Whether all proposed rights of way, emergency vehicle access, fire lanes, bicycle paths, pedestrian circulation and traffic circulation is illustrated and adequate.
- ❑ Whether proposed street names meet ordinance requirements.
- ❑ Whether deceleration, bypass, acceleration, center turn and corner clearances are satisfactory.
- ❑ Whether curb cuts, curb radii, throat widths, slopes and tapers meet ordinance requirements.
- ❑ Whether conflicts exist between proposed curb cuts and existing curb cuts in the general vicinity.

Parking and Loading

- ❑ Whether the required number of handicapped and regular parking spaces are provided, and whether the size, angle of stalls, widths of aisles and size and location of islands is adequate.
- ❑ Whether sufficient space exists for snow storage.
- ❑ Whether barrier free access is adequate.
- ❑ Whether the loading/unloading area is large enough and functionally designed with the proper surfacing materials.

Open Spaces

- ❑ Whether proposed common open spaces and common facilities are adequate and functional.

Fencing/Screening/Buffering/Landscaping

- ❑ Whether the fencing/screening meets ordinance requirements relative to size, materials and location, including screening of roof appliances.
- ❑ Whether landscaping, buffering/berming meets ordinance requirements relative to size, materials/species and location.

Signs

- ❑ Whether the size, number and type of signs meets ordinance requirements.

Lighting

- ❑ Whether lighting is satisfactorily directed to avoid adjoining parcels or glare in the streets, and whether the headlights of cars entering the parcel are adequately screened from adjoining parcels.

Solid and Hazardous Waste

- ☐ Whether solid waste disposal is illustrated and adequate.
- ☐ Whether the location and specifications for storage of any chemicals, salts, flammable materials, or hazardous materials on the site meets local, state and federal requirements.

Other Environmental Impacts

- ☐ Whether any endangered plant or animal habitat would be affected.
- ☐ Whether any unacceptable pollution, impairment or destruction of the environment would occur if the site plan were approved.

Compatibility and Aesthetics

- ☐ Whether the site design adequately considers any significant views and/or unique natural features.
- ☐ Whether the design is compatible with adjoining land uses in terms of the degree to which it minimizes negative Impacts (especially noise, dust, odor, light, vibrations), conveniently and safely extends streets and utilities, blends with the exterior design, scale and materials of existing development, and generally has an aesthetic character that will not negatively affect the value of surrounding lands.
- ☐ Whether an aerial photo of existing site conditions has been reviewed and special circumstances noted.

HAVE COMMENTS BEEN RECEIVED FROM THE FOLLOWING AGENCIES?**County and local agencies**

- ☐ Road Commission or Street Dept.
- ☐ Health Dept (septic/well permits)
- ☐ Drain Commissioner (drains and often soil erosion and sedimentation control permits)
- ☐ Fire Chief (water lines, hydrants, emergency vehicle access)
- ☐ Sheriff's Dept. or Police Chief
- ☐ Engineering Dept. (casements, rights of way, utility lines)
- ☐ Building Dept. (building code, sometimes sign codes)
- ☐ Water Dept. (water lines, hydrants, valves)
- ☐ Wastewater Treatment Dept.
- ☐ Zoning/Planning Dept.
- ☐ School District(s)

State Agencies

- ☐ Michigan Dept. of Transportation (driveway permits, access onto property along state or federal trunklines and freeways)
- ☐ Michigan Dept of Natural Resources
- ☐ Floodplains
- ☐ Inland lakes and streams permits
- ☐ Wetlands permits
- ☐ Solid waste permits
- ☐ Hazardous waste permits
- ☐ Air discharge permits
- ☐ Michigan Dept. of Commerce
- ☐ Condominium approvals
- ☐ Plat approvals
- ☐ Mobile home park approvals
- ☐ Michigan State Police/Fire Marshall (flammable materials storage)

Federal Agencies

- ☐ US Army Corps of Engineers (Permits for activities In certain wetlands, floodplains and navigable watercourses along the Great Lakes and connecting waters).

ARE THE ORDINANCE STANDARDS FOR SITE PLAN REVIEW MET?

Each of the discretionary standards for site plan review in your ordinance would be listed, and they would be checked off as met or unmet. See sample discretionary standards in Subsection 6 of Appendix I.

- 1.
- 2.
- 3.
- 4.
- 5.

LIST ALL CONDITIONS IMPOSED AND WHY

Each condition imposed would be listed and the reason for requiring it would be stated here.

- 1.
- 2.
- 3.
- 4.
- 5.

RECORD OF ACTION TAKEN

Action taken by decision body or official: _____
(usually Planning Commission/Zoning Board or Zoning Administrator)
Date: _____

Date conditions drafted and final site plan signed by the appropriate individual: _____
Date transmitted to developer: _____

Necessary easements prepared and approved by technical staff and attorney: _____

Date: _____

Necessary common open space agreements prepared and approved by technical staff and attorney: _____

Date: _____

Necessary performance guarantees prepared and approved by attorney: _____

Date transmitted to developer: _____

Note: Use a separate sheet to keep track of any subsequent amendments to an approved site plan but keep them filed with the final approvals. During construction several inspections should be made to insure conformance, and prior to the issuance of an occupancy permit a thorough inspection should be made to insure complete conformance to the site plan.

